REGISTERED No. D-(D)-72



असाधारण

EXTRAORDINARY

भाग 11-खण्ड 1

PART II-Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

Ho 44 No. 44

नई दिल्ली, श्क्रवार, सितम्बर 24, 1982/ग्रश्विणा 2, 1904 NEW DELHI, FRIDAY SEPTEMBER 24, 1982/ASVINA 2, 1904 (Saka)

इस भाग में भिन्न पष्ठ संख्या दी जाती ही जिससे कि यह जलग संकलन को रूप में रला जा सके ।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 24th September, 1982/Asvina 2, 1904 (Saka)

THE CENTRAL EXCISE LAWS (AMENDMENT AND VALIDATION) ORDINANCE, 1982

No. 1 OF 1982

Promulgated by the President in the Thirty-third Year of the Republic of India.

An Ordinance to provide for the amendment of laws relating to central excise and to validate duties of excise collected under such laws.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Central Excise Laws Short title (Amendment and Validation) Ordinance, 1982.

and commence-

(2) It shall be deemed to have come into force on the date of com- ment. 1944 mencement of the Central Excises and Salt Act, 1944.

Construction of notifications providing for

2. (1) Where any Central law providing for the levy and collection of any duty of excise makes the provisions of the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act) the rules made thereunder applicable by reference to the levy exemptions collection of the duty of excise under such law, then,-

- (a) no notification or order, issued or made under the said rules, (whether issued or made before or after the date of publication of this Ordinance in the Official Gazette and whether or not in force on such date) granting any exemption from any duty of excise or fixing any rate of such duty shall be construed as providing for exemption from the duty of excise leviable, or, as the case may be, fixing the rate of duty, under the said Central law, unless such notification or order-
 - (i) expressly refers to the provisions of the said Central law in the preamble; or
 - (ii) by express words, provides for an exemption from the duty of excise leviable, or, as the case may be, fixes the rate of duty, under the said Central law; and
- (b) every notification or order of the nature referred to in clause (a) which expressly refers to the provisions of any Central law or Central laws in the preamble, shall be construed as providing for exemption from the duty of excise leviable, or, as the case may be, fixing a rate of duty, only under such Central law or Central laws, unless such notification or order also, by express words, provides for an exemption from the duty of excise leviable or, as the case may be, fixes the rate of duty, under the Central Excises Act.
- (2) Every notification or order granting any exemption or fixing a rate of duty issued or made under the said rules at any time whatsoever before the date of publication of this Ordinance in the Official Gazette shall have, and shall be deemed to have always had, effect for all purposes as if the provisions of sub-section (1) had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action or thing taken or done, or purporting to have been taken or done, under the Central Excises Act or any Central law in any case by virtue of such notification or order shall be deemed to be, and to have always been, for all purposes as validly and effectively taken or done as if the provisions of sub-section (1) had been in force at all material times, and, notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing,-
 - (a) all duties of excise levied, assessed or collected with respect to any goods under the Central Excises Act or any Central law shall be deemed to be, and shall be deemed always to have been, validly levied, assessed or collected as if the provisions of sub-section (1) had been in force at all material times;
 - (b) no suit or other proceeding shall be maintained or continued in any court for the refund of, and no enforcement shall be made by any court of, any decree or order directing the refund of, any such

duties of excise which have been collected and which would have been validly collected if the provisions of sub-section (1) had been in force at all material times;

- (c) refunds shall be made of all such duties of excise which have been collected but which would not have been collected if the provisions of sub-section (1) had been in force at all material times; and
- (d) recoveries shall be made of all such duties of excise which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded if the provisions of sub-section (1) had been in force at all material times.
- (3) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this Ordinance had not been promulgated.

Explanation.-In this section, "Central law" means-

- (i) a Central Act, other than the Central Excises Act;
- (ii) any provision in a Bill introduced in the House of the People in respect of which a declaration was made under section 3 of the Provisional Collection of Taxes Act, 1931.

5 of 1931.

ZAIL SINGH,

President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.



वसाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

₹0 1] No. 1] नई दिल्ली, रविवार, जनवरी 2, 1983/पीय 12, 1904 NEW DELHI, SUNDAY, JANUARY, 2, 1983/PAUSA 12, 1904

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 2nd January, 1983/Pausa 12, 1904 (Saka)

THE DELHI ADMINISTRATION (AMENDMENT) ORDINANCE, 1983 No. 1 of 1983

Promulgated by the President in the Thirty-third Year of the Republic of India.

An Ordinance to amend the Delhi Administration Act, 1966.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

- 1. (1) This Ordinance may be called the Delhi Administration (Amendment) Ordinance, 1983.
 - (2) It shall come into force at once-
- 2. In the Delhi Administration Act, 1966 (hereinafter referred to as the principal Act), in section 3, for sub-section (5), the following sub-section nall be substituted, namely:—
 - "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this sub-section to the last preceding

Short title and commencement.

Amendment of section 3. census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.".

Amendment of section 4.

- 3. In section 4 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—
 - "(6) For the removal of doubts, it is hereby declared that until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the division of Delhi into constituencies under this section."

ZAIL SINGH, President.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

REGISTERED No. D-(D)-72



असाधारण् EXTRAORDINARY

भाग 11-लण्ड 1

PART II-Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORI

Ho 2]

नई विल्ली, रविवार, जनवरी 2, 1983/पीय 12, 1904

NEW DELHI, SUNDAY, JANUARY 2, 1983/PAUSA 12, 1904

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1983/Pausa 12, 1904 (Saka)

THE DELHI MUNICIPAL CORPORATION (AMENDMENT) ORDINANCE, 1983

No. 2 of 1983

Promulgated by the President in the Thirty-third Year of the Republic of India.

An Ordinance further to amend the Delhi Municipal Corporation Act, 1957.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

- 1. (1) This Ordinance may be called the Delhi Municipal Corporation (Amendment) Ordinance, 1983.
 - (2) It shall come into force at once.

Short title and commencement.

Insertion of new section 5A. Special

provision as to delimitation, etc.

2. In the Delhi Municipal Corporation Act, 1957, after section 5, the follow- 66 of 1957 ing section shall be inserted, namely:-

- "5A. Notwithstanding anything contained in section 3 or section 5, until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary,
 - (a) to alter the number of councillors and the number of councillors to be reserved for the members of the Scheduled Castes as determined under section 3 on the basis of the population of Delhi as ascertained at the 1971 census, or
 - (b) to alter the number of wards, or the extent of any ward, as determined under section 5 on the basis of the population of Delhi as ascertained at the 1971 census,

and for this purpose, the reference in sub-section (6) of section 3 to each census and the references to population in that sub-section and in subsection (1) of section 5 shall be construed, respectively, as references to the 1971 census and to the population as ascertained at the 1971 census.".

ZAIL SINGH.

President.

R. V. S. PERI SASTRI. Secy. to the Govt. of India.



असाधारण

EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

No. 16]

नई दिल्ली, बुधवार, जून 22, 1983/ग्राषाड़ 1, 1905 NEW DELHI, WEDNESDAY, JUNE 22, 1983/ASADHA 1, 1905

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलम के रूप में रखा जा सके ।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 22nd June, 1983 Asadha 1, 1905 (Saka)

THE SOCIETIES REGISTRATION (DELHI AMENDMENT) ORDINANCE, 1983

No. 3 of 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance further to amend the Societies Registration Act, 1860 as in force in the Union territory of Delhi.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

- 1. (1) This Ordinance may be called the Societies Registration (Delhi Amendment) Ordinance, 1983.
 - (2) It shall come into force at once.

Short title and commencement. Amendment of Act 21 of 1860.

- 2. In the Societies Registration Act, 1860, as in force in the Union territory of Delhi,—
 - (a) in the long title, for the words "Literary, Scientific and Charitable Societies", the words "Welfare, Literary, Scientific and Charitable Societies" shall be substituted;
 - (b) in the preamble, for the words "promotion of literature, science or the fine arts", the words "promotion of social welfare, activities conducive to the protection and improvement of the natural environment (including forests, lakes, rivers and wild life), compassion for living creatures, literature, science, sports, games or the fine arts" shall be substituted;
 - (c) in section 20, for the words "promotion of science, literature or the fine arts", the words "promotion of social welfare, activities conducive to the protection and improvement of the natural environment (including forests, lakes, rivers and wild life), compassion for living creatures, literature, science, sports, games or the fine arts" shall be substituted.

ZAIL SINGH, President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.



असधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं0 17)

नई दिस्ता, ब्रावार, ज्न 22, 1983/अवाद 1, 1905

No 17

NEW DELHI, WEDNESDAY, JUNE 22, 1983/ASADHA 1, 1905

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 22nd June, 1983/Asadha 1, 1905 (Saka)

THE ARMS (AMENDMENT) ORDINANCE, 1983 No. 4 of 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance further to amend the Arms Act, 1959.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

- 1. (1) This Ordinance may be called the Arms (Amendment) Ordinance, 1983.
 - (2) It shall come into force at once.
- 2. In section 2 of the Arms Act, 1959 (hereinafter referred to as the principal Act), in sub-section (1), after clause (f), the following clause shall be inserted, namely:—
 - '(ff) "magistrate" means an Executive Magistrate under the Code of Criminal Procedure, 1973;'.
- 3. Section 3 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1), as so re-numbered, the following sub-sections shall be inserted, namely:—

Short title and commencement.

Amendment of

section 2.

Amendment of section 3. "(2) Notwithstanding anything contained in sub-section (1), no person, other than a person referred to in sub-section (3), shall acquire, have in his possession or carry, at any time, more than three firearms:

Provided that a person who has in his possession more firearms than three at the commencement of the Arms (Amendment) Ordinance, 1983, may retain with him any three of such firearms and shall deposit, within thirty days from such commencement, the remaining firearms with the officer in charge of the nearest police station or, subject to the conditions prescribed for the purposes of sub-section (1) of section 21, with a licensed dealer or, where such person is a member of the Armed Forces of the Union, in a unit armoury referred to in that sub-section.

- (3) Nothing contained in sub-section (2) shall apply to any dealer in firearms or to any member of a rifle club or rifle association licensed or recognised by the Central Government using a point 22 bore rifle or an air rifle for target practice.
- (4) The provisions of sub-sections (2) to (6) (both inclusive) of section 21 shall apply in relation to any deposit of firearms under the proviso to sub-section (2) as they apply in relation to the deposit of any arm or ammunition under sub-section (1) of that section."

Amendment of section 5.

- 4. Section 5 of the principal Act shall be re-numbered as sub-section (1) thereof and
 - (a) in sub-section (1) as so re-numbered, the proviso shall be omitted;
 - (b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—
 - "(2) Notwithstanding anything contained in sub-section (1), a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having in his possession such arms or ammunition:

Provided that no firearm or ammunition in respect of which a licence is required under section 3 and no arms in respect of which a licence is required under section 4 shall be so sold or transferred by any person unless —

- (a) he has informed in writing the District Magistrate having jurisdiction or the officer in charge of the nearest police station of his intention to sell or transfer such firearms, ammunition or other arms and the name and address of the person to whom he intends to sell or transfer such firearms, ammunition or the other arms, and
- (b) a period of not less than forty-five days has expired after the giving of such information.".

Amendment of section 9.

- 5. In section 9 of the principal Act, in sub-section (1), in clause (a),-
- (a) in sub-clause (i), for the words "sixteen years", the words "twenty-one years" shall be substituted;

SEC. 1]

f 1898.

1974.

(b) in sub-clause (ii), for the words " a term of not less than six months", the words "any term" shall be substituted; and

- (c) in sub-clause (iii), for the words and figures "Code of Criminal Procedure 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.
- 6. In section 13 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

Amendment of section 13.

- "(2) On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.
- (2A) The licensing authority, after such inquiry, if any, as it may consider necessary, and after considering the report received under sub-section (2), shall subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same:

Provided that where the officer in charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report."

7. In Chapter IV of the principal Act, after section 24, the following sections shall be inserted, namely:—

Insertion of new sections 24A and 24B

"24A. (1) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area, it is necessary or expedient so to do, it may by notification in the Official Gazette—

Prohibition as to possession of notified arms in disturbed areas, etc.

- (a) specify the limits of such area;
- (b) direct that before the commencement of the period specified in the notification (which period shall be a period commencing from a date not earlier than the fourth day after the date of publication of the notification in the Official Gazette), every person having in his possession in such area any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms), shall deposit the same before such commencement in accordance with the provisions of section 21 and for this purpose the possession by such person of any notified arms shall, notwithstanding anything contained in any other provision of this Act (except section 41) or in any other law for the time being in force, as from the date of publication of such notification in the Official Gazette be deemed to have ceased to be lawful;

- (c) declare that as from the commencement of, and until the expiry of, the period specified in this behalf in the notification, it shall not be lawful for any person to have in his possession in such area any notified arms;
- (d) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification.—
 - (i) to search at any time during the period specified in the notification any person in or passing through, or any premises in, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container;
 - (ii) to seize at any time during the period specified in the notification any notified arms in the possession of any person in such area or discovered through a search under sub-clause (i), and detain the same during the period specified in the notification
- (2) The period specified in a notification issued under sub-section (1) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (1) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.
- (3) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to any search or seizure made under sub-section (1).
 - (4) For the purposes of this section,—
 - (a) "arms" includes ammunition;
 - (b) where the period specified in a notification, as originally issued under sub-section (1), is extended under sub-section (2), then, in relation to such notification, references in sub-section (1) to 'the period specified in the notification' shall be construed as references to the period as so extended.
- 24B. (1) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do, it may, by notification in the Official Gazette,—
 - (a) specify the limits of such area;
 - (b) direct that during the period specified in the notification (which period shall be a period commencing from a date not earlier than the second day after the date of publication of the notification in the Official Gazette), no person shall carry or

Prohibition
as to carrying of notified arms in or through public places in disturbed areas, etc.

otherwise have in his possession any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms) through or in any public place in such area;

- (c) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—
 - (i) to search at any time during the period specified in the notification any person in or passing through, or any premises in or forming part of, or any animal or vessel or vehicle or other conveyance of whatever nature, in or passing through, or any receptacle or other container of whatever nature in, any public place in such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container;
 - (ii) to seize at any time during the period specified in the notification any notified arms being carried by or otherwise in the possession of any person, through or in a public place in such area or discovered through a search under
- sub-clause (i), and detain the same during the period specified in the notification.
- (2) The period specified in a notification issued under sub-section (1) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (1) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.
- (3) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to any search or seizure made under sub-section (1).
 - (4) For the purposes of this section,-
 - (a) "arms" includes ammunition;
 - (b) "public place" means any place intended for use by, or accessible to, the public or any section of the public; and
 - (c) where the period specified in a notification, as originally issued under sub-section (1), is extended under sub-section (2), then, in relation to such notification, references in sub-section (1) to 'the period specified in the notification' shall be construed as references to the period as so extended."

of 1974

Amendment of section 25.

- 8. In section 25 of the principal Act,-
- (a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) Whoever-

- (a) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or
- (b) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or
- (c) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7; or
- (d) brings into, or takes out of, India any arms or ammunition of any class or description in contravention of section 11,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(1A) Whoever has in contravention of a notification issued under section 24A in his possession or in contravention of a notification issued under section 24B carries or otherwise has in his possession, any arms or ammunition shall be punishable with imprisonment for a term which shall not be less than one year, but which may extend to five years and shall also be liable to fine.

(1B) Whoever-

- (a) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or
- (b) acquires, has in his possession or carries in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification in contravention of that section; or
- (c) sells or transfers any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon as required by sub-section (2) of section 8 or does any act in contravention of sub-section (1) of that section; or
- (d) being a person to whom sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

- (e) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contavention of clause (b) of sub-section (1) of section 9; or
- (f) brings into, or takes out of, India, any arms or ammunition in contravention of section 10; or
- (g) transports any arms or ammunition in contravention of section 12; or
- (h) fails to deposit arms or ammunition as required by sub-section (2) of section 3, or sub-section (1) of section 21; or
- (i) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufactured or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and shall also be liable to fine:

Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than six months.";

- (b) for sub-section (3), the following sub-section shall be substituted, namely:—
 - "(3) Whoever sells or transfers any firearm, ammunition or other arms—
 - (i) without informing the District Magistrate having jurisdiction or the officer in charge of the nearest police station, of the intended sale or transfer of that firearm, ammunition or other arms; or
 - (ii) before the expiration of the period of forty-five days from the date of giving such information to such District Magistrate or the officer in charge of the police station,

in contravention of the provisions of clause (a) or clause (b) of the proviso to sub-section (2) of section 5, shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both."

Substitution of new section for section 26.

9. For section 26 of the principal Act, the following section shall be substituted, namely:-

Secret contraventions.

- "26. (1) Whoever does any act in contravention of any of the provisions of section 3, 4, 10 or 12 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle, or any other means of conveyance shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and also with fine.
- (2) Whoever does any act in contravention of any of the provisions of section 5, 6, 7 or 11 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and also with fine.
- (3) Whoever on any search being made under section 22 conceals or attempts to conceal any arms or ammunition, shall be punishable with imprisonment for a term which may extend to ten years and also with fine.".

Amendment of sections 27 and 28.

10. In sections 27 and 28 of the principal Act, for the words ", or with fine, or with both", the words "and with fine" shall be substituted.

Amendment of section 29.

11. In section 29 of the principal Act, for the words "six months, or with fine of an amount which may extend to five hundred rupees, or with both", the words "three years, or with fine, or with both" shall be substituted.

Amendment of section 30.

12. In section 30 of the principal Act, for the words "three months", the words "six months" and for the words "five hundred", the words "two thousand" shall be substituted.

Amendment of section 34.

13. In section 34 of the principal Act,—

(a) for the words and figures "Sea Customs Act, 1878", the set words and figures "Customs Act, 1962" shall be substituted;

(b) for the word and figures "section 16", the word figures "section 58" shall be substituted.

Amendment of sections 37 and 38.

14. In sections 37 and 38 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures 5 of 1888 "Code of Criminal Procedure, 1973" shall be substituted.

2 of Balley

Amendment of section 41.

15. In section 41 of the principal Act, in clause (a), for the words "exempt any person or class of persons", the words and brackets "exempt any person or class of persons (either generally or in relation to such description of arms and ammunition as may be specified in the notification)" shall be substituted.

16. In section 44 of the principal Act, -

Amendment of section 44.

- (a) in sub-section (2), in clause (a), after the words "licensing authorities", the words "including the areas and the categories of arms and ammunition for which they may grant licences" shall be inserted;
- (b) in sub-section (3), for the words "two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

ZAIL SINGH, President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.



जसाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

Ho 35)

नई दिल्ली, मुक्रवार, अक्तूबर 7, 1983/अध्वन 15, 1905 (शाका) NEW DELHI, FRIDAY, OCTOBER 7, 1983/ASVINA 15, 1905 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दो जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th October, 1983/Asvina 15, 1905 (Saka)

THE PUNJAB DISTURBED AREAS ORDINANCE, 1983

No. 5 of 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance to make better provision for the suppression of disorder and for the restoration and maintenance of public order in disturbed areas in Punjab.

Whereas by a Proclamation issued on the 6th day of October, 1983 by the President under article 356 of the Constitution the powers of the Legislature of the State of Punjab have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

Short title, extent and commencement.

- 1. (1) This Ordinance may be called the Punjab Disturbed Areas Ordinance, 1983.
 - (2) It extends to the whole of the State of Punjab.
 - (3) It shall come into force at once.

Definition.

2. In this Ordinance, "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area.

Powers to declare areas to be disturbed areas. 3. The State Government may, by notification in the Official Gazette, declare that the whole or any part of any district of Punjab as may be specified in the notification is a disturbed area.

Fower to fire upon persons contravening certain orders. 4. Any Magistrate or Police Officer not below the rank of Sub-Inspector or Havildar in case of the Armed Branch of the Police may, if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning, as he may consider necessary, fire upon, or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances.

Powers to destroy arms dump, fortified positions, etc. 5. Any Magistrate or Police Officer not below the rank of a Sub-Inspector may, if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made or any structure used as training camp for armed volunteers or utilized as a hideout by armed gangs or absconders wanted for any offence.

Protection of persons acting under sections 4 and 5.

6. No suit, prosecution or other legal proceedings shall be instituted except with the previous sanction of the State Government against any person in respect of anything done or purporting to be done in exercise of the powers conferred by sections 4 and 5.

ZAIL SINGH,

President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.



असाधारण

EXTRAORDINARY

भाग II—लण्ड ।
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

可 36) No 36) नई दिल्ली शुक्रवार, ग्रक्तूबर 7, 1983/ग्रहिवन 15, 1905 (शाका) NEW DELHI, FRIDAY, OCTOBER 7, 1983/ASVINA 15, 1905 (SAKA)

धस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 7th October, 1983/Asvina 15, 1905 (Saka)

THE CHANDIGARH DISTURBED AREAS ORDINANCE, 1983

No. 6 of 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance to make better provision for the suppression of disorder and for the restoration and maintenance of public order in disturbed areas in Chandigarh.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

- 1. (1) This Ordinance may be called the Chandigarh Disturbed Areas Ordinance, 1983.
 - (2) It extends to the whole of the Union territory of Chandigarh.
 - (3) It shall come into force at once.

Short atitle, extent and commencement. Definitions.

2. In this Ordinance,-

- (a) "Administrator" means the Administrator of the Union territory of Chandigarh appointed under article 239 of the Constitution;
- (b) "disturbed area" means the area which is for the time being declared by notification under section 3 to be a disturbed area.

Powers to declare areas to be disturbed areas. 3. The Administrator may, by notification in the Official Gazette, declare that the whole or any part of the Union territory of Chandigarh as may be specified in the notification is a disturbed area.

Power to fire upon persons contravening certain orders. 4. Any Magistrate or Police Officer not below the rank of Sub-Inspector or Havildar in case of the Armed Branch of the Police may, if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning, as he may consider necessary, fire upon, or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances.

Powers to destroy arms dump, fortified positions, etc. 5. Any Magistrate or Police Officer not below the rank of a Sub-Inspector may, if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made or any structure used as training camp for armed volunteers or utilised as a hideout by armed gangs or absconders wanted for any offence.

Protection of persons acting under sections 4 and 5.

6. No suit, prosecution or other legal proceedings shall be instituted except with the previous sanction of the Administrator against any person in respect of anything done or purporting to be done in exercise of the powers conferred by sections 4 and 5.

ZAIL SINGH,
President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.



असाधारण

EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं 0 37) नई दिल्ली शुक्रवार, अक्तुबर 7, 1983/अ।श्विन 15, 1905 (शाका) No. 37) । NEW DELHI, FRIDAY, OCTOBER 7, 1983/ASVINA 15, 1905 (SAKA)

> इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th October, 1983/Asvina 15, 1905 (Saka)

THE TEA (AMENDMENT) ORDINANCE, 1983

No. 7 of 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance further to amend the Tea Act, 1953.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

- 1. (1) This Ordinance may be called the Tea (Amendment) Ordinance, 1983.
 - (2) It shall come into force at once.

Amendment of sections 16D and 16-I.

2. In the proviso to sub-section (2) of section 16D and in clause (a) of sub-section (2) of section 16-I of the Tea Act, 1953, for the words "two 29 of 1955 years", the words "six years" shall be substituted.

RPIEIS IN THE

ZAIL SINGH, President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.

Table 2) and at small that the too all say and paid.

WAR MOVE THE COLUMN TO THE CHARLES AS THE LAND.



वसाधारण EXTRAORDINARY

भाग II—खण्ड । PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

संo 38] নই হিল্লা, ফালিবাৰ, ফাল্টুছৰ 15, 1983/আহিবন 23, 1905 (মাক)
No. 38] NEW DELHI, SATURDAY, OCTOBER 15, 1983/ASVINA 23, 1905 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या वी जाती ही जिससे कि यह अलग संकलन के रूप में रखा जा सके।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 15th October, 1983/Asvina 23, 1905 (Saka)

THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) ORDINANCE, 1983

No. 8 of 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance to provide for the establishment of Tribunals for the determination, in a fair manner, of the question whether a person is an illegal migrant to enable the Central Government to expel illegal migrants from India and for matters connected therewith or incidental thereto.

WHEREAS a substantial number of the foreigners who migrated into India across the borders of the eastern and north-eastern regions of the country on and after the 25th day of March, 1971, have, by taking advantage of the circumstances of such migration and their ethnic similarities and other connections with the people of India and without having in their possession any lawful authority so to do, illegally remained in India;

AND WHEREAS the continuance of such foreigners in India is detrimental to the interests of the public of India;

AND WHEREAS on account of the number of such foreigners and the manner in which such foreigners have clandestinely been trying to pass off as

31 of 114

citizens of India and all other relevant circumstances, it is necessary for the protection of the citizens of India to make special provisions for the detection of such foreigners in Assam and also in any other part of India in which such foreigners may be found to have remained illegally;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement,

- 1. (1) This Ordinance may be called the Illegal Migrants (Determination by Tribunals) Ordinance, 1983.
 - (2) It extends to the whole of India.
- (3) It shall come into force in the State of Assam at once and in any other State on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and references in this Ordinance to the commencement of this Ordinance shall be construed in relation to any State as references to the date of commencement of this Ordinance in such State.

Application,

- 2. Nothing in this Ordinance shall apply to or in relation to-
 - (a) any person who was in any State and who had been expelled from that State or India before the commencement of this Ordinance in that State or in relation to whose expulsion from such State or India any order made before such commencement under any other law is in force;
- (b) any person detected as a foreigner at the time of his entry across any border of India;
- (c) any foreigner who, having entered into India under a valid passport or travel document, continued to remain therein after the expiry of the period for which he was authorised to remain in India under such passport or travel document.

Definitions and construction of references.

- 3. (1) In this Ordinance, unless the context otherwise requires,-
 - (a), "Appellate Tribunal" means an Appellate Tribunal established by the Central Government under sub-section (1) of section 15;
 - (b) "foreigner" has the same meaning as in the Foreigners Act, 1946;
 - (c) "illegal migrant" means a person in respect of whom each of the following conditions is satisfied, namely:—
 - (i) he has entered into India on or after the 25th day of March, 1971;
 - (ii) he is a foreigner;

(iii) he has entered into India without being in possession of a valid passport or other travel document or any other lawful authority in that behalf;

of 1950.

of 1950.

- (d) "notification" means a notification published in the Official Gazette:
- (e) "prescribed" means prescribed by rules made under this Ordinance;
- (f) "Tribunal" means a Tribunal established by the Central Government under sub-section (1) of section 5.
- (2) Any reference in this Ordinance to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.
- 4. (1) The provisions of this Ordinance or of any rule or order made thereunder shall have effect notwithstanding anything contained in the Immigrants (Expulsion from Assam) Act, 1950 or any other enactment for the time being in force, or any rule or order made under any such enactment and in force for the time being.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), nothing in the proviso to section 2 of the Immigrants (Expulsion from Assam) Act, 1950 shall apply to or in relation to an illegal migrant as defined in clause (c) of sub-section (1) of section 3.

CHAPTER II

ESTABLISHMENT OF TRIBUNALS

- 5. (1) The Central Government may, by notification, establish, for the purposes of this Ordinance, as many Illegal Migrants (Determination) Tribunals as it may deem necessary and specify the principal place of sitting of, and the territorial limits within which, each such Tribunal shall exercise its jurisdiction.
- (2) No person shall be appointed as a member of any such Tribunal unless he is or has been a District Judge or an Additional District Judge in any State.
 - (3) Each Tribunal shall consist of three members.
- (4) On the establishment of a Tribunal, the Central Government shall appoint one of the members thereof as the Chairman of such Tribunal.
- (5) Each Tribunal shall sit in its principal place of sitting and in such other place or places as its Chairman may, from time to time, appoint.
- 6. If, for any reason, any vacancy occurs in the office of the Chairman or any other member of a Tribunal, the Central Government may fill the vacancy by appointing any person who fulfils the qualifications specified in sub-section (2) of section 5, as the Chairman, or, as the case may be, member of such Tribunal.
- 7. The Central Government shall make available to every Tribunal such staff as may be necessary for the discharge of its functions under this Ordinance.
- 8. (1) It any question arises as to whether any person is or is not an illegal migrant, the Central Government may, whether such question has arisen on a representation made by such person against any order under the Foreigners Act, 1946 requiring him not to remain in India or to any other effect or has arisen in any other manner whatsoever, refer such question to a Tribunal for decision.
- (2) Without prejudice to the power conferred on the Central Government by sub-section (1), any person may make an application to the Tribunal, for its decision, as to whether the person whose name and other particulars are given in the application, is or is not an illegal migrant:

Overriding effect of the Ordinance.

Establishment of Illegal Migrants (Determination) Tribunals,

Filling of vacancies

Staff of the Tribunals.

References or applications to Tribunals.

5 of 1908

Provided that no such application shall be entertained by the Tribunal unless the person in relation to whom the application is made is found, or resides, at a place within three kilometres from the place of residence of the applicant.

- (3) Every application made under sub-section (2) shall be made in such form and in such manner as may be prescribed and shall be accompanied by affidavits sworn by not less than two persons residing within three kilometres of the area in which the person referred to in the application is found, or residing, corroborating the averments made in the application, and shall also be accompanied by such fee, being not less than twenty-five, and not more than one hundred, rupees, as may be prescribed.
- (4) Every reference under sub-section (1), and every application under sub-section (2), shall be made to the Tribunal within the territorial limits of whose jurisdiction the place of residence of the person named in such reference or application, as the case may be, is situated:

Provided that where the person named in such reference or application has no place of residence, the reference or application, as the case may be, shall be made to the Tribunal within the territorial limits of whose jurisdiction such person is found.

Powers of the Tribunal.

- 9. Every Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—
 - (a) summoning and enforcing the attendance of witnesses and examining them on oath;
 - (b) discovery and production of any document;
 - (c) reception of evidence on affidavits;
 - (d) requisitioning of public records from any court or office;
 - (e) issuing of any commission for the examination of witnesses.

Procedure
with respect to
references
under subsection
(1) of
section 8.

10. On receipt of a reference under sub-section (1) of section 8, the Tribunal shall serve on the person named in such reference, a notice, accompanied by a copy of such reference, calling upon him to make, within a period of thirty days from the date of receipt of such notice, such representation with regard to the averments made in the reference, and to produce such evidence as he may think fit in support of his defence:

Provided that if the Tribunal is satisfied that the person aforesaid was prevented by sufficient cause from making his representation and from producing evidence in support of his defence within the said period of thirty days, it may permit him to make his representation and to produce evidence in support of his defence, within such further period, not exceeding thirty days, as it may, by order, specify.

Procedure with respect to applications under subsection (2) of section 8.

- 11. (1) On receipt of an application under sub-section (2) of section 8, the Tribunal shall issue a notice, accompanied by a copy of the application, to the prescribed authority calling upon it to furnish, after making such inquiry as that authority may deem fit, a report to the Tribunal with regard to the averments made in the application.
- (2) If, on a consideration of the report made by the prescribed authority, the Tribunal is satisfied that—
 - (a) the person named in the application is not an illegal migrant or that the application is frivolous or vexatious, or has not been made in

good faith, the Tribunal shall, after giving the applicant an opportunity to be heard, reject the application;

(b) there are reasonable grounds to believe that the person named in the application is an illegal migrant, the Tribunal shall issue a notice accompanied by a copy of the application, to the person named in the application, calling upon him to make, within thirty days from the date of receipt of the notice, such representation with regard to the averments made in the application and to produce such evidence as he may think fit in support of his defence:

Provided that if the Tribunal is satisfied that the person aforesaid was prevented by sufficient cause from making his representation and from producing evidence in support of his defence within the said period of thirty days, it may permit him to make his representation and to produce evidence in support of his defence, within such further period, not exceeding thirty days, as it may, by order, specify.

12. (1) The Tribunal to which a reference has been made under section 8, or to which an application has been made under that section, shall, after taking such evidence as may be adduced before it and after making such inquiry as it may think fit and after hearing such persons as it may deem appropriate, by order, decide the question as to whether the person named in such reference or application, as the case may be, is or is not an illegal migrant:

nation of the question as to whether a person is an illegal migrant.

Determi_

Provided that where for the determination of such question in any case the decision on any issue renders any decision on any other issue or issues unnecessary, the Tribunal may not decide such other issue or issues.

- (2) Where the members of the Tribunal differ in their opinion on any point, the decision on such point shall be according to the opinion of the majority of such members.
- (3) The Tribunal shall send a copy of every order passed by it to the prescribed authority and to the parties to the reference, or the application, as the case may be.
- (4) Every order passed under sub-section (1) shall, subject to the decision of the Appellate Tribunal, be final and shall not be called in question in any court.
- 13. Every reference made to a Tribunal under section 8 or application made to a Tribunal under that section shall be inquired into as expeditiously as possible and every endeavour shall be made to conclude such inquiry within a period of six months from the date of the service, on the person concerned, of a copy of the main grounds on which the reference has been made to the Tribunal, or where an application has been made to it, a copy of the application.

Reference and application to be disposed of within six months.

14. The Central Government, or any person, named in a reference or an application under section 8, or any applicant under sub-section (2) of that section may, if it or he is not satisfied with any order made by a Tribunal under section 12, prefer an appeal to the Appellate Tribunal against such order.

Appellate

Tribunal.

Appeal.

State in which this Ordinance is in force an Appellate Tribunal to be known as the Illegal Migrants (Determination) Appellate Tribunal for deciding appeals preferred under section 14 against orders made by Tribunals in the State and specify the principal place of sitting of such Appellate Tribunal.

SEC. 11

good faith, the Tribunal shall, after giving the applicant an opportunity to be heard, reject the application;

(b) there are reasonable grounds to believe that the person named in the application is an illegal migrant, the Tribunal shall issue a notice accompanied by a copy of the application, to the person named in the application, calling upon him to make, within thirty days from the date of receipt of the notice, such representation with regard to the averments made in the application and to produce such evidence as he may think fit in support of his defence:

Provided that if the Tribunal is satisfied that the person aforesaid was prevented by sufficient cause from making his representation and from producing evidence in support of his defence within the said period of thirty days, it may permit him to make his representation and to produce evidence in support of his defence, within such further period, not exceeding thirty days, as it may, by order, specify.

12. (1) The Tribunal to which a reference has been made under section 8, or to which an application has been made under that section, shall, after taking such evidence as may be adduced before it and after making such inquiry as it may think fit and after hearing such persons as it may deem appropriate, by order, decide the question as to whether the person named in such reference or application, as the case may be, is or is not an illegal migrant:

Determination of the question as to whether a person is an illegal migrant.

Provided that where for the determination of such question in any case the decision on any issue renders any decision on any other issue or issues unnecessary, the Tribunal may not decide such other issue or issues.

- point, the decision on such point shall be according to the opinion of the majority of such members.
- (3) The Tribunal shall send a copy of every order passed by it to the prescribed authority and to the parties to the reference, or the application, as the case may be.
- (4) Every order passed under sub-section (1) shall, subject to the decision of the Appellate Tribunal, be final and shall not be called in question in any court.
- 13. Every reference made to a Tribunal under section 8 or application made to a Tribunal under that section shall be inquired into as expeditiously as possible and every endeavour shall be made to conclude such inquiry within a period of six months from the date of the service, on the person concerned, of a copy of the main grounds on which the reference has been made to the Tribunal, or where an application has been made to it, a copy of the application.

Reference and application to be disposed of within six months.

14. The Central Government, or any person, named in a reference or an application under section 8, or any applicant under sub-section (2) of that section may, if it or he is not satisfied with any order made by a Tribunal under section 12, prefer an appeal to the Appellate Tribunal against such order.

Appeal.

15. (1) The Central Government may, by notification, establish for each State in which this Ordinance is in force an Appellate Tribunal to be known as the Illegal Migrants (Determination) Appellate Tribunal for deciding appeals preferred under section 14 against orders made by Tribunals in the State and specify the principal place of sitting of such Appellate Tribunal.

Appellate Tribunal

- (2) No person shall be appointed as a member of an Appellate Tribunal unless he is or has been a judge of a High Court.
- (3) An Appellate Tribunal shall consist of as many members, not being less than three and more than six, as the Central Government may think fit.
- (4) The Central Government shall appoint one of the members of an Appellate Tribunal to be the President thereof.
- (5) An Appellate Tribunal shall sit in its principal place of sitting or any such other place or places as the President thereof may, from time to time, appoint.
- (6) The powers and functions of an Appellate Tribunal may be exercised and discharged by benches constituted by the President thereof from amongst the members thereof and each bench shall consist of not less than two members.
- (7) The Central Government shall make available to every Appellate Tribunal such staff as may be necessary for the discharge of its functions under this Ordinance.
- (8) Every memorandum of appeal to an Appellate Tribunal shall be made in such form and in such manner as may be prescribed, and, in the case of an appeal preferred by an applicant under sub-section (2) of section 8, shall also be accompanied by such fee, not being less than twenty-five and more than one hundred, rupees, as may be prescribed.
- (9) Every appeal shall be preferred within thirty days from the date on which the order sought to be appealed against was communicated to the appellant:

Provided that the Appellate Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period, admit an appeal after the expiry of the aforesaid period of thirty days.

- (10) Every Appellate Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—
 - (a) summoning and enforcing the attendance of witnesses and examining them on oath;
 - (b) discovery and production of any document;
 - (c) reception of evidence on affidavits;
 - (d) requisitioning of public records from any court or office;
 - (e) issuing of any commission for the examination of witnesses.
- 16. (1) The Appellate Tribunal may, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it may think it, confirming, modifying or annulling the order appealed against or may remand the case to the Tribunal which had passed such order with such directions to that Tribunal as the Appellate Tribunal may think fit, for fresh determination after taking additional evidence, if necessary.
- (2) Where an appeal had been heard by the Appellate Tribunal and the members thereof differ in their opinion on any point, the decision on such point shall, where there is a majority, be according to the opinion of such majority, and where there is no majority and the members are equally divided in their opinion, they shall draw up a statement of the facts of the case and the point or points on which they differ in their opinion and make a reference of the point or points or of the appeal, as the case may be, to the President

Order of the Appellate Tribunal. of such Tribunal, and on receipt of such reference, the President of the Tribunal shall arrange for the hearing of such point or points, or the appeal, by one or more of the members of the Appellate Tribunal, and such point or points, or the appeal, as the case may be, shall be decided according to the opinion of the majority of the members of the Appellate Tribunal, who have heard the appeal, including those who had first heard it.

- (3) The Appellate Tribunal shall send a copy of every order passed by it under sub-section (1) to the parties to the appeal and to the Tribunal concerned.
- (4) Subject to the provisions of section 17, every order passed under sub-section (1), other than an order remanding the case, shall be final and no order passed under that sub-section shall be called in question in any court.
- 17. The High Court may call for the record of any case which has been decided by the Appellate Tribunal situate within its local jurisdiction, and if such Appellate Tribunal appears—
 - (a) to have exercised a jurisdiction not vested in it by law, or
 - (b) to have failed to exercise a jurisdiction so vested, or
 - (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made or any order deciding an issue in the course of a proceeding with respect to an appeal, except where—

- · (i) the order, if it had been made in favour of the party applying for revision, would have finally disposed of the proceeding, or
- (ii) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

Explanation.—In this section, the expression "any case which has been decided" includes any order made or any order deciding an issue in the course of a proceeding with respect to any appeal.

CHAPTER III

PROVISIONS APPLICABLE TO ALL TRIBUNALS

18. Subject to the provisions of this Ordinance and the rules made thereunder, every Tribunal and every Appellate Tribunal shall have the power to regulate its own procedure in all matters arising out of the exercise of its powers or for the discharge of its functions.

Procedure

Revision.

19. Every proceeding before a Tribunal or the Appellate Tribunal shall be deemed to be judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code; and every such Tribunal or Appellate Tribunal, as the case may be, shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Proceeding before every Tribunal to be judicial proceeding for cortain purposes.

1860.

974.

CHAPTER IV

ENFORCEMENT OF THE ORDERS MADE BY THE TRIBUNALS

Expulsion of illegal migrants.

20. Where a person has been determined by a Tribunal, or, as the case may be, by the Appellate Tribunal, to be an illegal migrant, the Central Government shall, by order served on such person, direct such person to remove himself from India within such time and by such route as may be specified in the order and may give such further directions in regard to his removal from India as it may consider necessary or expedient.

CHAPTER V

MISCELLANEOUS

Delegation of powers.

- 21. The Central Government may, by notification, direct that the powers and duties conferred or imposed on it by this Ordinance, other than the powers conferred by section 28, and the powers conferred by this section, may, subject to such conditions as may be specified in the notification, be exercised or discharged also by—
 - (a) any officer subordinate to the Central Government;
 - (b) any State Government or any officer subordinate to that Government.

Power to give effect to the orders, etc. 22. Any authority empowered by or in pursuance of the provisions of this Ordinance to exercise any power, may, in addition to any other action expressly provided for in this Ordinance, take, or cause to be taken, such steps, and use, or cause to be used, such force, as may in its opinion be reasonably necessary tor the effective exercise of such power.

Bar of jurisdiction of civil courts. 23. Where a Tribunal or Appellate Tribunal has been established for any area for the purpose of determining whether a person is or is not an itlegal migrant, no civil court shall have jurisdiction to entertain any question relating to that matter in that area and no injunction or any other order in respect of any action taken by, or before, the Tribunal or Appellate Tribunal in respect of that matter shall be granted or made by any civil court.

Transitory provision.

24. Where in any suit or other legal proceeding pending, whether in a civil court or in any Tribunal established under any other law for the time being in force, immediately before the commencement of this Ordinance, a question arises as to whether a person is or is not an illegal migrant, such court or Tribunal shall, without deciding such question, make an order transferring such suit or other legal proceeding to the Tribunal under this Ordinance within the territorial limits of whose jurisdiction such court or other Tribunal is situate and on such transfer such question shall be dealt with by such Tribunal in accordance with the provisions of this Ordinance.

Penalties.

- 25. Any person who,-
- (a) contravenes or attempts to contravene, or abets the contravention of, any order made under section 20; or
 - (b) fails to comply with any direction given by any such order; of
- (e) harbours any person who has contravened any order made under section 20 or has failed to comply with any direction given by any such order,

SEC. 1]

shall be punishable with imprisonment for a term which may extent to three years and shall also be liable to fine.

26. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance.

Protection of action taken in good faith.

27. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order to be published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient for removing the difficulty.

Power to remove difficulties.

Power to

make rules.

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.
- 28. (1) The Central Government may, by notification, make rules to carry out the provisions of this ordinance.
- (2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—
 - (a) the form and the manner in which an application may be made and the fee which shall accompany such application, as required by subsection (3) of section 8;
 - (b) the authority to be prescribed under section 11;
 - (c) the form and the manner in which an appeal to the Appellate Tribunal may be preferred and the fee which shall accompany such appeal, as required by sub-section (8) of section 15;
 - (d) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Central Government under this Ordinance 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.

ZAIL SINGH,

President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.



असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

संo 39] नई दिल्लो, शनिशार, ग्रक्टूबर 15, 1983/ग्राश्विन 23, 1905 (शक) No. 39] NEW DELHI, SATURDAY, OCTOBER 15, 1983/ASVINA 23, 1905 (SAKA)

> इस भाग में भिन्न पृष्ठ संख्या दो जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 15th October, 1983/Asvina 23, 1905 (Saka)

THE ARMED FORCES (PUNJAB AND CHANDIGARH)
SPECIAL POWERS ORDINANCE, 1983

No. 9 OF 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance to enable certain special powers to be conferred upon members of the armed forces in the disturbed areas in the State of Punjab and the Union territory of Chandigarh.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

- 1. (1) This Ordinance may be called the Armed Forces (Punjab and Chandigarh) Special Powers Ordinance, 1983.
- (2) It extends to the whole of the State of Punjab and the Union territory of Chandigarh.
 - (3) It shall come into force at once.

Short title, extent and commencement. Definitions.

- 2. In this Ordinance, unless the context otherwise requires,-
- (a) "armed forces" means the military forces and the air forces operating as land forces, and includes any other armed forces of the Union so operating;
- (b) "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area;
- (c) all other words and expressions used herein, but not defined and defined in the Air Force Act, 1950, or the Army Act, 1950, shall have the meanings respectively assigned to them in those Acts.

45 of 19

Power to declare areas to be disturbed areas. 3. If, in relation to the State of Punjab or the Union territory of Chandigarh, the Governor of that State or the Administrator of that Union territory or the Central Government, in either case, is of the opinion that the whole or any part of such State or Union territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of the State or the Administrator of that Union territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of that State or Union territory to be a disturbed area.

Special powers of the armed forces.

- 4. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,—
 - (a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;
 - (b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilised as a hideout by armed gangs or absconders wanted for any offence;
 - (c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;
 - (d) enter and search, without warrant, any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary, and seize any such property, arms, ammunition or explosive substances;
 - (e) stop, search and seize any vehicle or vessel reasonably suspected to be carrying any person who is a proclaimed offender, or any person who

has committed a non-cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a non-cognizable offence, or any person who is carrying any arms, ammunition or explosive substance believed to be unlawfully held by him, and may, for that purpose, use such force as may be necessary to effect such stoppage, search or seizure, as the case may be.

5. Every person making a search under this Ordinance shall have the power to break open the lock of any door, almirah, safe, box, cupboard, drawer, package or other thing, if the key thereof is withheld.

Power of search to include powers to break open locks etc.

6. Any person arrested and taken into custody under this Ordinance and every property, arm, ammunition or explosive substance or any vehicle or vessel seized under this Ordinance, shall be made over to the officer-in-charge of the nearest Police station with the least possible delay, together with a report of the circumstances occasioning the arrest, or, as the case may be, occasioning the seizure of such property, arm, ammunition or explosive substance or any vehicle or vessel, as the case may be.

Arrested person and seized property to be made over to the Police.

7. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Ordinance.

Protection of persons acting in good faith under this Ordinance.

ZAIL SINGH, President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.



असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

> इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

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

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 18th October, 1983/Asvina 26, 1905 (Saka)

THE TEXTILE UNDERTAKINGS (TAKING OVER OF MANAGEMENT) ORDINANCE, 1983

No. 10 OF 1983

Promulgated by the President in the Thirty-fourth Year of the Republic of India.

An Ordinance to provide for the taking over in the public interest of the management of the textile undertakings of the companies specified in the First Schedule pending nationalisation of such undertakings and for matters connected therewith or incidental thereto.

Whereas by reason of mismanagement of the affairs of the textile undertakings specified in the First Schedule, their financial condition became wholly unsatisfactory even before the commencement in January 1982 of the textile strike in Bombay and their financial condition has thereafter further deteriorated;

AND WHEREAS certain public financial institutions have advanced large sums of money to the companies owning the said undertakings with a view to making the said undertakings viable;

1 of Bis

AND WHEREAS further investment of very large sums of money is necessary for reorganising and rehabilitating the said undertakings and thereby to protect the interests of the workmen employed therein and to augment the production and distribution at fair prices of different varieties of cloth and yarn so as to subserve the interests of the general public;

AND WHEREAS acquisition by the Central Government of the said undertakings is necessary to enable it to invest such large sums of money;

AND WHEREAS, pending the acquisition of the said undertakings, it is expedient in the public interest to take over the management of the said undertakings;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title and commencement.

- 1. (1) This Ordinance may be called the Textile Undertakings (Taking Over of Management) Ordinance, 1983.
 - (2) It shall come into force at once.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,-
 - (a) "appointed day" means the date on which this Ordinance comes into force;
 - (b) "Custodian" means the person appointed under section 4 to take over the management of the undertakings;
 - (c) "notification" means a notification published in the Official Gazette;
 - (d) "prescribed" means prescribed by rules made under this Ordinance;
 - (e) "textile undertaking" or "the textile undertaking" means an undertaking specified in the second column of the First Schedule;
- (f) "textile company" means a company (being a company as defined in the Companies Act, 1956) specified in the third column of the First Schedule, as owning the undertaking specified in the corresponding entry in the second column of that Schedule;
- (g) 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.

CHAPTER II

TAKING OVER OF THE MANAGEMENT OF CERTAIN TEXTILE UNDERTAKINGS

- 3. (1) On and from the appointed day, the management of all the textile undertakings shall vest in the Central Government.
- (2) The textile undertaking shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges of the textile company in relation to the said textile undertaking and all property, movable and immovable, including lands, buildings, workshops, projects, stores, spares, instruments, machinery, equipment, automobiles and other vehicles, and goods under production or in transit, cash balances, reserve fund, investments and booklets 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 textile company whether within or outside India and all books of account, registers and all other documents of whatever nature relating thereto.
- (3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the textile undertaking and in force immediately before the appointed day, or any order made by any court in so far as it relates to the management of the business and affairs of the textile undertaking and in force immediately before the appointed day shall be deemed to have terminated on the appointed day.
- (4) All persons in charge of the management, including persons holding offices as directors, managers or any other managerial personnel, of the textile company in relation to the textile undertaking, immediately before the appointed day, shall be deemed to have vacated their offices as such on the appointed day.
- (5) Notwithstanding anything contained in any other law for the time being in torce no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3), or who ceases to hold any office by reason of the provisions contained in sub-section (4), shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office, as the case may be.
- (6) Notwithstanding any judgment, decree or order of any court, tribunal or other authority or anything contained in any other law (other than this Ordinance) for the time being in force, every receiver or other person in whose possession or custody or under whose control the textile undertaking or any part thereof may be immediately before the appointed day, shall, on the commencement of this Ordinance, deliver the possession of the said undertaking or such part thereof, as the case may be, to the Custodian, or where no Custodian has been appointed, to such other person as the Central Government may direct.
- (7) For the removal of doubts, it is hereby declared that any liability incurred by a textile company in relation to the textile undertaking before the appointed day shall be enforceable against the concerned textile company and not against the Central Government or the Custodian.
- 4. (1) The Central Government may, as soon as it is convenient administratively so to do, appoint any person or body of persons (including a Government company, whether in existence at the commencement of this Ordinance or incorporated thereafter) as a Custodian of the textile undertaking for the purpose of carrying on the management of such undertaking and the Custodian so appointed

Management of certain textile undertakings to vest in the Central Government.

> Custodian of the textile undertakings.

shall carry on the management of the textile undertaking for and on behalf of the Central Government.

- (2) On the appointment of a Custodian under sub-section (1), the management of the textile undertaking shall vest in such Custodian and all persons in charge of the management of such undertaking immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver such management to the Custodian.
- (3) The Central Government may, by notification, authorise the Custodian to appoint any person (including a Government company, whether in existence at the commencement of this Ordinance or incorporated thereafter) as the Additional Custodian of the textile undertaking.
- (4) The Additional Custodian shall assist the Custodian in the exercise of his or its powers and duties under this Ordinance and shall function under the direction, supervision and control of the Custodian; and the Custodian may delegate to the Additional Custodian all or such of his or its powers as he or it may think fit.
- (5) Subject to any general or special direction given or condition imposed by the Custodian, any person authorised by the Custodian to exercise any power may exercise that power in the same manner and with the same effect as if it had been conferred on that person directly by this Ordinance and not by way of authorisation.
- (6) 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 as to his or its powers and duties as the Central Government deems to be desirable in the circumstances of the case, and the Custodian may also apply to the Central Government at any time for instructions as to the manner in which he or it shall conduct the management of the textile undertaking or in relation to any other matter arising in the course of such management.
- (7) Subject to the other provisions of this Ordinance and the control of the Central Government, the Custodian shall be entitled, notwithstanding anything contained in the Companies Act, 1956, to exercise all the powers, in relation to the textile undertaking, of the Board of Directors of the textile company (including the power to dispose of any properties or assets of the textile company) whether such powers are derived from the Companies Act, 1956, or from the memorandum and articles of association of the concerned textile company or from any other source.
- (8) Every person having possession, custody or control of any property forming part of the textile undertaking shall deliver forthwith such property to the Custodian or to any officer or other employee of the Central Government or the Custodian, as may be authorised by the Central Government or the Custodian in this behalf.
- (9) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the textile undertaking the management of which has vested in the Central Government under this Ordinance, 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 (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Custodian and shall deliver them up to

1 of 1-5

the Custodian or to any such person (being an officer or other employee of the Central Government or the Custodian) as may be authorised by the Central Government or the Custodian in this behalf.

- (10) Every person in charge of the management of any textile undertaking immediately before the appointed day shall, within ten days from that day 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 and investments and belongings) forming part of the undertaking immediately before the appointed day and of all the liabilities and obligations of the textile company in relation to the undertaking, subsisting immediately before that day, and also of all agreements entered into by such textile company in relation to the undertaking and in force immediately before that day.
- (11) The Custodian and the Additional Custodian shall receive from the funds of the textile undertakings such remuneration as the Central Government may fix.
- 5. (1) Every textile company shall be given by the Central Government an amount, in cash, and at the rate specified in sub-section (2), for the vesting in it, under section 3, of the management of the textile undertaking of the company.
- (2) For every month during which the management of the textile undertaking remains vested in the Central Government under this Ordinance, the amount, referred to in sub-section (1), shall be computed—
 - (i) for a spinning unit, at the rate of fifty paise per 1,000 spindles or any part thereof;
 - (ii) for a weaving unit, at the rate of one rupee per 100 looms or any part thereof;
 - (iii) for a composite unit with or without dye-house at the rate of fifty paise per 1,000 spindles or any part thereof plus one rupee per 100 looms plus one paisa per 10,000 metres of cloth processed in the dye-house based on the average monthly production of the last three completed years;
 - (iv) for a wholly processing unit (being a unit which does not have any spindle or loom), one paisa per one thousand square metres or any part thereof of the average of the total quantity of textiles processed during the period of three years immediately preceding the appointed day in such unit.

CHAPTER III

POWER TO PROVIDE RELIEF TO THE TEXTILE UNDERTAKINGS

- 6. (1) The Central Government may, if satisfied, in relation to any of the textile undertakings or any part thereof, the management of which has vested in it under this Ordinance, that it is necessary so to do in the interests of the general public with a view to preventing any fall in the volume of production of such undertaking, by notification, declare that—
 - (a) all or any of the enactments specified in the Second 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 undertaking as may be specified in such notification, or

Payment of amount.

Power of the Central Government to make certain declarations in relation to certain textile undertakings,

- (b) the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such textile undertaking or the textile company owning such undertaking is a party or which may be applicable to such textile undertaking or textile company) 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 subject to such adaptations and in such manner as may be specified in the notification.
- (2) The notification made under sub-section (1) shall remain in force, in the first instance, for a period of one year 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:

Provided that no such notification shall, in any case, remain in force after the expiry of three years from the commencement of this Ordinance.

- (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 in any submission, settlement or standing order.
- (4) Where by virtue of a notification under clause (b) of sub-section (1), any right, privilege, obligation or liability remains suspended or is enforceable subject to the adaptations and in the manner specified in the notification, all proceedings relating thereto pending before any court, tribunal, officer or other authority shall accordingly remain stayed or be subject to such adaptations, as the case may be; so however, on the notification ceasing to have effect—
 - (a) such right, privilege, obligation or liability shall be 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 be then in force, from the stage which had been reached when the proceeding became 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.

CHAPTER IV

MISCELLANEOUS

- 7. The provisions of this Ordinance or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law (other than this Ordinance) or in any instrument having effect by virtue of any law other than this Ordinance or in any decree or order of any court.
- 8. (1) So long as the management of the textile undertaking of a textile company remains vested in the Central Government under this Ordinance, notwithstanding anything contained in the Companies Act, 1956 or in the memorandum or articles of association of such company,—
 - (a) it shall not be lawful for the shareholders of the textile company or any other person to nominate or appoint any person to be a Director of such textile company in relation to such undertaking;

Ordinance to have over-riding effect.

Application of Act 1 of 1956.

- (b) no resolution affecting (whether directly or indirectly) such undertaking which is passed at any meeting of the shareholders of the textile company on or after the appointed day shall be given effect to unless approved by the Central Government;
- (c) no proceeding for the winding up of the textile company or for the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.
- (2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Ordinance and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification, specify in this behalf, the Companies Act, 1956, shall continue to apply to the textile companies in the same manner as it applied thereto before the appointed day.
- 9. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by any of the textile companies in respect of any matter arising out of any transaction in relation to its textile undertaking, the time during which this Ordinance remains in force shall be excluded.

Exclusion of period of operation of this Ordinance from limitation.

Protection of action taken in good faith.

- 10. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian or the Additional Custodian or any officer or other employee of the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Ordinance.
- (2) No suit or other legal proceeding shall lie against the Central Government or the Custodian or the Additional Custodian or any of the officers or other employees of the Central Government or the 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 Ordinance.
- 11. (1) If the Central Government is satisfied, after such inquiry as it may think proper, that any contract or agreement entered into at any time within three years immediately preceding the appointed day between any of the textile companies or managing or other director of any such textile company and any other person in relation to any service, sale or supply to, or by, its textile undertaking and in force immediately before the appointed day, has been entered into in bad faith, or is detrimental to the interests of the textile undertaking of the concerned textile company, it may make, within one hundred and eighty days from the appointed day, an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Contracts, etc., in bad faith may be can-celled or varied.

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 civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the concerned

1956.

textile company is situated for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

Avoidance of voluntary transfers.

Power to terminate contracts of employment.

Penalties.

12. Any transfer of property, movable or immovable, or any delivery of goods made by or on behalf of any of the textile companies (not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser for valuable consideration and in good faith), if made within a period of six months immediately preceding the appointed day, shall be void against the Central Government or the Custodian, as the case may be.

13. If the Custodian is of opinion that any contract of employment entered into by any textile company or managing or other director of the company in relation to its textile undertaking at any time before the appointed day is unduly onerous, he or it may, by giving to the employee one month's notice in writing or salary or wages for one month in lieu thereof, terminate such contract of employment.

14. (1) Any person, who-

- (a) having in his possession or custody or under his control any property forming part of any of the textile undertakings, wrongfully withholds such property from the Custodian or any person authorised under this Ordinance, or
 - (b) wrongfully obtains possession of any such property, or
- (c) wilfully retains any property forming part of such textile undertaking or removes or destroys it, or
- (d) wilfully withholds from, or fails to deliver to, the Custodian or any person authorised under this Ordinance, any books, papers or other documents relating to such textile undertaking which may be in his possession, power or custody or under his control, or
- (e) fails, without any reasonable excuse, to furnish information or particulars as provided in section 4,

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.

- (2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or an officer authorised by that Government in this behalf.
- 15. (1) Where an offence under this Ordinance 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 and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance 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.

Offences by companies. 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.
- 16. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

Power to make rules.

(2) Every rule made by the Central Government under this Ordinance 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.

THE FIRST SCHEDULE

[See section 2(f)]

S. No. Name of the undertaking

Name of the owner

1 2 3

1 Elphinstone Spinning and Weaving Mills, Elphinstone Road, Bombay.

The Elphinstone Spinning and Weaving Mills Co. Ltd., Kamani Chambers, 32, Ramji Bhai Kamani Marg, Bombay-38.

Rao Road, Bombay.

3 Gold Mohur Mills, Dadasaheb

2 Finlay Mills, 10/11, Dr. S. S.

- Phalke Road, Dadar, Bombay.

 4 Jam Manufacturing Mills,
- 5 Kohinoor Mills (No. 1), Naigaum Cross Road, Dadar, Bombay.

Lalbaug, Parel, Bombay.

- 6 Kohinoor Mills (No. 2), Naigaum Cross Road, Dadar, Bombay.
- 7 Kohinoor Mills (No. 3), Lady Jamshedji Road, Dadar, Bombay.
- 8 New City of Bombay Manufacturing Mills, 63, Tukaram B. Kadam Marg, Bombay.
- 9 Podar Mills, N. M. Joshi Marg, Bombay.
- 10 Podar Mills (Process House), Ganpat Rao Kadam Marg, Bombay.
- 11 Shree Madhusudan Mills, Pandurang Budhkar Marg, Bombay.
- 12 Shree Sitaram Mills, N. M. Joshi Marg, Bombay.
- 13 Tata Mills, Dr. Ambedkar Road, Dadar, Bombay.

- The Finlay Mills Ltd., Chartered Bank Building, Fort, Bombay-23.
- The Gold Mohur Mills Ltd., Chartered Bank Building, Fort, Bombay-23.
- The Jam Manufacturing Co. Ltd., Lalbaug, Parel, Bombay-12.
- The Kohinoor Mills Co. Ltd., Killick House, Charanjit Rai Marg, (Home Street), Fort, Bombay-1.
- The Kohinoor Mills Co. Ltd., Killick House, Charanjit Rai Marg (Home Street), Fort, Bombay-1.
- The Kohinoor Mills Co. Ltd., Killick House, Charanjit Rai Marg (Home Street), Fort, Bombay-1.
- The New City of Bombay Manufacturing Co. Ltd., 63, Tukaram Bhisaji Kadam Path, Bombay-33.
- The Podar Mills Ltd., Podar Chambers, Syed Abdulla Brelvi Road, Fort, Bombay-1.
- The Podar Mills Ltd., Podar Chambers, Syed Abdulla Brelvi Road, Fort, Bombay-1.
- Shree Madhusudan Mills Ltd., 31, Chowringhee Road, Calcutta-16.
- Shree Sitaram Mills Ltd., N. M. Joshi Marg, Bombay-11.
- The Tata Mills Ltd., Bombay House, 24, Homi Mody Street, 17 ort, Bombay-23.

THE SECOND SCHEDULE

(See section 6)

1. The Industrial Employment (Standing Orders) Act, 1946.

14 06 11

2. The Industrial Disputes Act, 1947.

14 of 11-1

20 of 1

3. The Minimum Wages Act, 1948.

To Recognize the Control of the Cont

The Middleson that to take their though

And oil movement to the hist out and the Annual Section of the sec

The Police Mills End Police Complete Tred Bodalla

11 of 1

ZAIL SINGH,

President.

R. V. S. PERI SASTRI, Secy. to the Govt. of India.

to roder Mille Process Mexico. The Police Mile fort, Moder Character, Kind Allacia.

ment telle it it is serve source that it is the later