

**GUJARAT SICK TEXTILE UNDERTAKINGS  
(NATIONALISATION) ACT, 1986**

**25 of 1986**

**[15th September, 1986]**

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## **SCHEDULE 1 :- .**

## **SCHEDULE 2 :- .**

# **GUJARAT SICK TEXTILE UNDERTAKINGS (NATIONALISATION) ACT, 1986**

**25 of 1986**

**[15th September, 1986]**

An Act to provide for the acquisition and transfer of sick textile undertakings, and the right, title and interest of the owners in respect of the sick textile undertakings, specified in the First Schedule with a view to reorganising and rehabilitating such sick textile undertakings so as to subserve the interests of the general public by the augmentation of the production, and distribution, at fair prices, of different varieties of cloth and yarn, and for matter connected therewith or incidental thereto. It is hereby enacted in the Thirty-seventh Year of the Republic of India as follows :

## **CHAPTER 1**

### **Preliminary**

## **1. Short title and commencement :-**

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

(2) It shall be deemed to have come into force on the 1st January, 1986.

## **2. Definitions :-**

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

(a) "appointed day" means the 1st day of January, 1986:

(b) "bank" means

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

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

(iii) a corresponding new bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (5 of 1980);

(iv) a corresponding new bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

(v) any other bank, being a scheduled bank as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);

(vi) the Industrial Finance Corporation of India established under Section 3 of the Industrial Finance Corporation Act, 1948 (14 of 1948);

(vii) the Industrial Development Bank of India established under Section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964);

(c) "Commissioner" means a Commissioner of Payments appointed under Section 14 ;

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

(e) "notification" means a notification published in the Official

Gazette;

(f) "owner" when used in relation to a sick textile undertaking; means any person or firm who or which is, immediately before the appointed day, the immediate proprietor or lessee or occupier of the sick textile undertaking or any part thereof, and in the case of a textile company which is being wound up or the business whereof is being carried on by a liquidator or receiver, includes such liquidator or receiver, and also includes any agent or manager of such owner but does not include any person or body of persons authorised under the Industries (Development and Regulation) Act, 1951 (65 of 1951); to take over the management of the whole or any part of the sick textile undertaking;

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

(h) "sick textile undertaking" means a textile undertaking, specified in the First Schedule, the management of which has, before the appointed day, been taken over by the Central Government under the Industries (Development and Regulation) Act, 1951, (65 of 1951) or as the case may be, vested in the Corporation as a lessee;

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

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

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

(l) "textile undertaking" means an undertaking engaged in the manufacture of textiles and to which the provisions of the Factories Act, 1948 (63 of 1948) apply.

(2) Words and expressions used but not defined in this Act and defined in the Industries (Development and Regulation) Act, 1951, (65 of 1951) shall have the meanings respectively assigned to them in that Act.

(3) Words and expressions used but not defined either in this Act or in the Industries (Development and Regulation) Act, 1951 (65 of 1951) but defined in the Companies Act, 1956 , (1 of 1956) shall

have the meanings respectively assigned to them in the Companies Act, 1956 .

## CHAPTER 2

Acquisition of the rights of the owners of sick textile undertakings

### **3. Acquisition of rights of owners in respect of sick textile undertakings :-**

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

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

### **4. General effect of vesting :-**

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

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

(3) Where any licence or other instrument in relation to the sick textile undertaking had been granted at any time before the appointed day to an owner by the Central Government or a State Government or any other authority, the Corporation shall, on and from such date, be deemed to be substituted in such licence or other instrument in place of the owner referred to therein as if such

licence or other instrument had been granted to it and shall hold such licence or such other instrument for the remainder of the period for which the owner would have held such licence or such other instrument.

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

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

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any matter specified in sub-section (2) of Section 7 in respect of the sick textile undertaking, instituted or preferred by or against the textile company, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the sick textile undertaking or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

## **5. Owner to be liable for certain prior liabilities :-**

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

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

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

Corporation;

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

#### **6. Contribution by the State Government :-**

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

#### CHAPTER 3

Payment of Amount

#### **7. Payment of amount to owner of sick textile undertakings :-**

(1) The owner of every sick textile undertaking shall be given by the State Government, in cash and in the manner specified in Chapter V, for the transfer to, and vesting in, the State Government under sub-section (1) of Section 3 of the sick textile undertaking and the right, title and interest of owner in relation to such textile undertaking, an amount equal to the amount specified against it in the corresponding entry in column (4) of the First Schedule.

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

#### **8. Payment of further amount :-**

(1) In consideration of retrospective operation of the provisions of Section 3 , Section 4 and Section 5 , there shall be given, in cash by the State Government to the owner of every sick textile undertaking, the management of which was taken over by the Central Government an amount equal to an amount calculated at the rate of one thousand rupees per month for the period commencing on the appointed day and ending on the date on which the Gujarat Sick Textile Undertakings (Nationalisation) Ordinance, 1986 (Guj. Ord. 7 of 1986) was first published in the Official Gazette.

(2) In addition to the amount referred to in Section 7 there shall be given by the State Government, in cash, to the owner of the sick textile undertaking, simple interest at the rate of 4 per cent per annum on the said amount for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the State Government to the Commissioner.

**9. Management etc., of sick textile undertakings :-**

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

**10. Duty of persons in charge of management of sick textile under takings to deliver all assets etc :-**

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

**11. Accounts :-**

The Corporation shall maintain the accounts of the sick textile undertakings in accordance with the provisions of the Companies Act, 1956(1 of 1956).

**CHAPTER 4**

Provisions Relating to Employees of Sick Textile Undertaking

**12. Employment of certain employees to continue :-**

(1) Every person who is a workmen within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and has been, immediately before the appointed day, employed in the sick textile undeftaking shall become, on and from the appointed day, an employee of the Corporation, and shall hold office or service in the Corporation with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such sick textile undertaking had not been transferred to, and vested in the Corporation, and shall continue to



do so unless and until his employment in the Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Corporation.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and who has been, immediately before the appointed day, employed in the sick textile undertaking shall, in so far as such person is employed in connection with the sick textile undertaking which has vested in the Corporation, become, as from the appointed day, an employee of the Corporation and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the sick textile undertaking if it had not vested in the Corporation and shall continue to do so unless and until his employment in the Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Corporation.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other person employed in the sick textile undertaking of the Corporation shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, Tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person whose services are liable to be terminated or whose services are liable to be transferred to the Corporation by reason of the provisions of this Act is entitled to any arrears of salary or wages or any payment for any leave not availed of or of other payment, not being payment by way of gratuity or pension, such person may except to the extent such liability of payment has been taken over by the State Government or the Corporation under sub-section (2) of Section 7 enforce his claim against the owner of the sick textile undertaking but not against the State Government or the Corporation.

### **13. Provident and other funds :-**

(1) Where the owner of the sick textile undertaking has established

a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in such textile undertaking the monies relatable to the employees, whose services have been transferred by or under this Act to the Corporation shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund stand transferred to, and shall vest in the Corporation.

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

#### CHAPTER 5

#### Commissioner of Payments

### **14. Appointment of Commissioner of Payments :-**

(1) For the purpose of disbursing the amounts payable to the owner of each sick textile undertaking, the State Government shall, by notification in the Official Gazette, appoint such person as it may think fit to be Commissioner of Payments who shall exercise the powers conferred, and perform the duties imposed on him by or under this Act and different persons may be appointed for disbursing the amounts payable to different owners.

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

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

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

(5) Reference in this Act, to the Commissioner shall be construed as reference to the Commissioner in relation to the sick textile undertaking in respect of which he is appointed under sub-section (1).

## **15. Payments by the State Government to the Commissioner :-**

(1) The State Government shall, within ninety days from the specified date, pay in cash to the Commissioner, for payment to the owner of the sick textile undertaking, an amount equal to the amount specified against the sick textile undertaking in the First Schedule after deducting therefrom such amount paid under Section 24 and shall also pay to the Commissioner such sums as may be due to the owner of the sick textile undertaking under Section 8 ;

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

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

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

## **16. Certain powers of the Corporation :-**

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

(2) The Corporation may make a claim to the Commissioner with regard to every payment made by the Custodian after the appointed day but before the date on which the Gujarat Sick Textile Undertakings (Nationalisation) Ordinance, 1986 (Guj. Ord. 7 of 1986) was first published in the Official Gazette for discharging any liability of the owner of the sick textile undertaking in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching, under this Act to the matter in relation to, which such liability has been discharged by the Custodian.

(3) Save as otherwise provided in this Act the liabilities in relation to the sick textile undertaking in respect of any period prior to the appointed day which have not been discharged by the Corporation shall be the liabilities of the owner that sick textile undertaking.

Explanation. For the purposes of this section the expression "custodian" means,

(a) in the case where the management of a textile undertaking specified in the First Schedule has been taken over by the Central Government under the Industries (Development and Regulation) Act, 1951 (65 of 1951), the body or body of persons authorised by the Central Government to take over the management, and

(b) in the case of a textile undertaking specified in the First Schedule which has vested in the Corporation as a lessee, the Corporation.

**17. Claim to be made to the Commissioner :-**

Every person having a claim against the owner of the sick textile undertaking shall prefer such claim before the Commissioner within thirty days from the specified date:

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

**18. Priority of claims :-**

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

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

(b) the claims specified in each category except item (i) of Category II relating to the Industrial Development Bank of India, the Industrial Finance Corporation of India and any bank shall rank equally and be paid in full, but if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(c) the liabilities specified in item (i) of Category II relating to the Industrial Development Bank of India, the Industrial Finance Corporation of India and any bank shall be discharged in the

manner agreed to by the State Government of one part with the banks and institutions of other part subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority inter se of such loans; and

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

### **19. Examination of claims :-**

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

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

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

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

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

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

admit or reject the claim in whole or in part.

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

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

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

(c) the reception of evidence on affidavits;

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

(6) A investigation before the Commissioner shall be deemed to be judicial proceeding within the meaning of Section 193 of the Indian Penal Code, 1860 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of Section 195 of the Indian Penal Code, 1860 and Chapter XXVI of the Code of Criminal Procedure, 1973 (1 of 1974).

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

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

## **21. Disbursement of money by the Commissioner to claimants :-**

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

## **22. Disbursement of amount to the owner of sick textile**

## **undertaking :-**

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

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

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

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

Explanation : In this section, "Court" in relation to the sick textile undertaking, means the principal civil court of original jurisdiction within the local limits of whose jurisdiction the sick textile undertaking is situated.

## **23. Undisbursed or unclaimed amount to be transferred to the general revenue account :-**

Any money paid to the Commissioner which remains un- disbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred, by the

Commissioner to the general revenue account of the State Government, but a claim to any money so transferred may be preferred to the State Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

#### CHAPTER 6

##### Miscellaneous

#### **24. Payment of certain liabilities as an advance :-**

Notwithstanding anything contained in Chapter V it shall be lawful for the State Government, or the Corporation if authorised by the State Government in that behalf, to make payment in respect of any of the liabilities specified in Category I in the Second Schedule as an advance subject to adjustment by way of further payment by the State Government or, as these case may be, the Corporation, or by way of refund by the person to whom the advance is made, after the claims made by the person to whom such advance is made in respect of such liabilities are either admitted or rejected by the Commissioner under Chapter V.

#### **25. Act to override all other enactment :-**

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

#### **26. Contract to cease to have effect unless ratified by Corporation :-**

(1) Every contract entered into by the owner or occupier of sick textile undertaking for any service, sale or supply and in force immediately before the appointed day shall, on and from the expiry of one hundred and eighty days from the date on which the Gujarat Sick Textile Undertakings (Nationalisation) Ordinance, 1986 (Guj. Ord. 7 of 1986) was first published in the Official Gazette, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing by the Corporation and in ratifying such contract the Corporation may, with the previous approval of the State Government, make such alteration or modification therein as it may think fit :

Provided that the Corporation shall not omit to ratify a contract,



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

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

## **27. Penalties :-**

Any person who,

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

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

(c) wrongfully removes or destroys any property forming part of the textile undertaking or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

## **28. Offences by companies :-**

(1) Where an offence under this Act, has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purpose 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.

### **29. Protection of action taken in good faith :-**

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

### **30. Textile companies not to be wound up by the court :-**

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

### **31. Delegation of powers :-**

(1) The State Government may, by notification, direct that all or any of the powers exercisable by it under this Act other than the power under Section 32 , may also be exercised by any person or persons as may be specified in the notification.

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

### **32. Power to make rules :-**

(1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the time within which and the manner in which an intimation referred to in sub-section (4) of Section 4 shall be given;

(b) the manner in which monies in any provident or other fund referred to in Section 13 shall be dealt with;

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

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

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

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

### **33. Power to remove difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act the State Government may, by order not inconsistent with the provisions of this Act, remove the difficulty : Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act is first published in the Official Gazette.

### **34. Declaration as to the Policy of the State :-**

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

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

### **35. Protection in respect of certain contraventions or failures :-**

Notwithstanding the retrospective operation of this Act, no contravention of any provision of this Act, or any failure to comply with any provision thereof, shall render any person responsible for such contravention or failure liable to any prosecution under this Act if such contravention or failure took place before 30th June, 1986.

### **36. Repeal and Savings :-**

(1) The Gujarat Sick Textile Undertakings (Nationalisation) Ordinance, 1986 (Guj. Ord. 7 of 1986) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

#### **SCHEDULE 1**

<b>FIRST SCHEDULE</b>			
[ See sections 2(1)(h), 2(1)(k), 7, 15 and 22(3) ]			
Sr. No.	Name of the undertaking	Name of the owner	Amount (Rs. in lakhs)
1	2	3	4
1.	Priyalaxmi Textile Mills, Baroda.	Kesaria Investment Limited, New Delhi.	676.48
2.	Shri Shubhlaxmi Mills Ltd. Cambay.	Shri Shubhlaxmi Mills, Ltd. Cambay.	663.64
3.	Kanti Cotton Mills Pvt. Ltd., Surendranagar.	Kanti Cotton Mills Pvt. Ltd. Surendranagar.	179.97
4.	New Jahangir Vakil Mills Co. Ltd. Bhavnagar	New Jahangir Vakil Mills Co. Ltd., Bhavnagar.	561.49

#### **SCHEDULE 2**

<b>SECOND SCHEDULE</b>
[See sections 7(2), 18, 19, 20 and 22]
<b>Order of Priorities for the Discharge of Liabilities in respect of the Sick Textile Undertakings</b>
<b>CATEGORY I</b>

(i) All dues of employees of the sick textile undertaking relating to pre-take over management period and post-take over management period.

(ii) Arrears relating to contribution towards provident fund/contributions under the Employees State Insurance Act, 1948 payable by the owner.

**CATEGORY II**

(i) Loans inclusive of interest advanced by the Central or the State Government, Gujarat State Sick Textile Corporation Ltd., Industrial Development Bank of India, Industrial Finance Corporation of India and any bank.

(ii) Sundry creditors of the post take-over management period.

**CATEGORY III**

(i) Arrears of excise duty, sales tax and other statutory dues of Government and dues relating to electricity and dues of a local authority of pre-take over management period.

(ii) Sundry creditors of pre-take over management period.

(iii) Other liabilities.