



The Mackintosh Burn (Taking Over of Management) Act, 1976

Act 41 of 1976

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West Bengal Act XLI of 1976¹

THE MACKINTOSH BURN (TAKING OVER OF MANAGEMENT) ACT, 1976.

[7th September, 1976.]

An Act to provide for the taking over of the management of the undertaking of the Mackintosh Burn Limited for a limited period in the public interest and in order to secure the proper management thereof.

WHEREAS it is expedient to provide for the taking over of the management of the undertaking of the Mackintosh Burn Limited for a limited period in the public interest and in order to secure the proper management thereof;

It is hereby enacted in the Twenty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. This Act may be called the Mackintosh Burn (Taking over of Management) Act, 1976. Short title.
2. In this Act, unless the context otherwise requires,— Definitions.
 - (a) "appointed day" means the date of publication of the order made under section 3;
 - (b) "company" means the Mackintosh Burn Limited;
 - (c) "prescribed" means prescribed by rules made under this Act;
 - (d) "undertaking of the company" means the properties of the company, both movable and immovable, cash balances, reserve funds and other assets of the company including lands, buildings, machineries, plants, furniture, equipments, stores and any other property which may be in the ownership, possession, custody or control of the company immediately before the commencement of this Act.
3. (1) The State Government may, by an order published in the *Official Gazette*, take over the management of the undertaking of the company and appoint a person or body of persons for managing the undertaking of the company in accordance with the provisions of this Act and the rules made thereunder. Taking over of management of the undertaking of the company.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV, of the 25th March, 1976, page 1403; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 20th April

(Sections 4-6.)

(2) An order made under sub-section (1) shall remain in force for a period of five years from the date of its publication in the *Official Gazette*:

Provided that the State Government may extend the period by one year at a time so, however, that the total period of such extension shall not exceed five years.

Effect of an order made under section 3.

4. With effect from the appointed day—
- (i) the person or body of persons appointed under section 3 shall have all the powers of management in relation to the undertaking of the company;
 - (ii) all persons exercising any power of management in relation to the undertaking of the company, including persons holding offices as Directors, Agents or Managers, as the case may be, immediately before the appointed day, but excluding those who are salaried employees of the undertaking of the company shall, subject to the provisions of clause (iii), cease to exercise such power;
 - (iii) all salaried employees of the undertaking of the company including persons holding salaried offices as whole-time Directors, Agents or Managers and continuing in office immediately before the appointed day shall be employed by the State Government on such terms and conditions, not being less advantageous than what they were entitled to immediately before the appointed day, as may be determined by the State Government by rules made in this behalf.

Use of properties under the management of the State Government.

5. All properties which remain under the management of the State Government under this Act shall be used for the purposes for which they were being used immediately before the appointed day and upon the expiry of the period of such management the properties shall revert to the company.

Penalty.

6. (1) Any person, who—
- (a) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the person or body of persons appointed under section 3, or
 - (b) wrongfully obtains possession of any property forming part of the undertaking of the company, or
 - (c) wilfully withholds or fails to produce to any person authorised under this Act, any register, record or other document which may be in his possession, custody or control, or

XLI of 1976.]

(Sections 7-11.)

(d) fails, without any reasonable cause, to submit any accounts, books, or other documents when required to do so, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

(2) All offences under this section shall be cognizable.

7. The person or body or persons appointed under section 3 shall have the power to institute, defend or take part in, any suit or proceeding by or against the company, relating to the undertaking of the company.

Power to institute or defend suits and proceedings.

8. (1) The State Government may, on the application made by the person or body of persons appointed under section 3 in this behalf, advance moneys to the company for the purpose of efficiently managing the business of the company and all such moneys shall be repaid by the company with such interest as may be prescribed.

Advances by State Government.

(2) Any money advanced to the company under sub-section (1) shall, subject to the prior payment of municipal rates and any sum due to Government on account of taxes or fees, be a first charge upon the undertaking of the company.

9. No suit, prosecution or other legal proceeding shall lie against the State Government or the person or body of persons appointed under section 3 or any other person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of action taken under the Act.

10. If any difficulty arises in giving effect to the provisions of this Act the State Government may take such steps or issue such orders not inconsistent with this Act as may be necessary for the removal of the difficulty.

Power to remove difficulties.

11. (1) The State Government may make rules for carrying out the purposes of this Act.

Power to make rules.

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

- (a) the management of the undertaking of the company, and
- (b) any other matter which has to be, or may be, prescribed.

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