

# THE TEA (AMENDMENT) ACT, 1976

No. 75 OF 1976

[11th June, 1976]

## An Act further to amend the Tea Act, 1953.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Tea (Amendment) Act, 1976.

Short  
title.

29 of 1953.

2. After Chapter III of the Tea Act, 1953, the following Chapter shall be inserted, namely:—

Insertion  
of new  
Chapter  
IIIA.

### 'CHAPTER IIIA

#### MANAGEMENT OR CONTROL OF TEA UNDERTAKINGS OR TEA UNITS BY THE CENTRAL GOVERNMENT IN CERTAIN CIRCUMSTANCES

16A. (1) In this Chapter, unless the context otherwise requires,—

Defini-  
tions.

(a) "authorised person" means the person or body of persons authorised, or appointed, by the Central Government under this Act to take over the management of any tea undertaking or tea unit;

(b) "company" means a company within the meaning of section 3 of the Companies Act, 1956;

(c) "district average yield" means the average yield of tea in the district in which one or more tea units are located, as published by the Board;

(d) "notified order" means an order notified in the Official Gazette;

(e) "tea undertaking" means an undertaking engaged in the production or manufacture, or both, of tea through one or more tea units;

1 of 1956.

(f) "tea unit" means a tea estate or garden, including a subdivision thereof, which has a distinct entity for which accounts are kept and has a factory of its own for the production and manufacture of tea.

(2) References to an industrial undertaking in such of the provisions of the Industries (Development and Regulation) Act, 1951, as apply to a tea undertaking or tea unit by virtue of the provisions of this Chapter, shall be construed as references to a tea undertaking or tea unit, as the case may be, and references in the Act aforesaid to any provision of that Act, as applicable to a tea undertaking or tea unit, in relation to which a corresponding provision has been made in this Act, shall be construed as references to such corresponding provision.

65 of 1951

Power to cause investigation to be made in relation to a tea undertaking or tea unit.

16B. (1) Where the Central Government is of opinion in respect of a tea undertaking or a tea unit that—

(a) the tea undertaking or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or

(b) the average yield of the tea undertaking, or, as the case may be, the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent., or more; or

(c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues of workers and other employees, or rent of the land, or duties of excise, or such other dues as they are under an obligation to pay under any law for the time being in force; or

(d) the tea undertaking, or as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

the Central Government may make, or cause to be made a full and complete investigation into the affairs of the tea undertaking or, as the case may be, the tea unit, by such person or body of persons as it may appoint for the purpose.

(2) Where a company owning a tea undertaking is being wound up by or under the supervision of the Court and the business of such company is not being continued, the Central Government may, if it is of opinion that it is necessary, in the interests of the general public, and, in particular, in the interest of production, supply or distribution of tea, to investigate into the possibility of running or restarting the tea undertaking, make an application to the Court paying for permission to make, or cause to be made, an investigation into such possibility by such person or body of persons as that Government may appoint for the purpose; and, where such an application is made, the Court shall, notwithstanding anything contained in the Companies Act, 1956, or in any other law for the time being in force, grant the permission prayed for.

1 of 1956.

85 of 1951.

(3) The person or body of persons appointed to make any investigation under sub-section (1) or, as the case may be, sub-section (2), shall have the same powers as are specified in section 18 of the Industries (Development and Regulation) Act, 1951.

16C. (1) If, after making or causing to be made any such investigation as is referred to in sub-section (1) of section 16B, the Central Government is satisfied that action under this section is desirable, it may issue such directions to the tea undertaking or tea unit concerned, as may be appropriate in the circumstances, for all or any of the following purposes, namely:—

Power of Central Government on completion of investigation

(a) regulating the production of tea by the tea undertaking or, as the case may be, tea unit and fixing the standards of production;

(b) requiring the tea undertaking or, as the case may be, tea unit to take such steps as the Central Government considers necessary to stimulate the production, manufacture or plantation, of tea;

(c) prohibiting the tea undertaking or, as the case may be, tea unit from resorting to any act or practice which might reduce its production, capacity or economic value;

(d) controlling the prices, or regulating the distribution, of tea produced or manufactured by the tea undertaking or, as the case may be, tea unit.

(2) Where a case relating to any tea undertaking or tea unit is under investigation, the Central Government may issue, at any time, any direction of the nature referred to in sub-section (1) to the tea undertaking or the tea unit concerned and any such direction shall have effect until it is varied or revoked by the Central Government.

16D. (1) If the Central Government is of opinion that—

(a) a tea undertaking or tea unit, to which directions have been issued in pursuance of section 16C, has failed to comply with such directions, or the tea undertaking, or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or

(b) the average yield of the tea undertaking, or, as the case may be, the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent. or more; or

(c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues, of workers and other employees, or rent of the land, or duties of excise, or in the payment of such other dues as are obligatory under any law for the time being in force; or

(d) the undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

Power of Central Government to assume management or control of tea undertaking or tea unit in certain cases.

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit, as the case may be, or to exercise in respect of the whole or any part of the tea undertaking or, as the case may be, tea unit, such functions of control as may be specified in the order.

(2) Any notified order issued under sub-section (1) shall have effect for such period, not exceeding five years, as may be specified in the order:

Provided that if the Central Government is of opinion that it is expedient in the public interest that any such notified order should continue to have effect after the expiry of the period of five years aforesaid, it may from time to time issue directions for such continuance for such period, not exceeding one year at a time, as may be specified in the direction, so, however, that the total period of such continuance (after the expiry of the said period of five years) does not exceed two years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.

(3) Any notified order issued under sub-section (1) shall have the same effect as if it were an order made under sub-section (1) of section 18A of the Industries (Development and Regulation) Act, 1951, and the provisions of section 18B of that Act shall apply accordingly.

65 of 1951.

(4) Notwithstanding anything contained in any law for the time being in force, no person, who ceases to hold any office by reason of the provisions contained in clause (a), or whose contract of management is terminated by reason of the provisions contained in clause (b), of section 18B of the Industries (Development and Regulation) Act, 1951, as applicable to a tea undertaking or tea unit by virtue of the provisions of sub-section (3), shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management:

65 of 1951.

Provided that nothing contained in this section shall affect the right of any such person to recover from the tea undertaking or the tea unit, as the case may be, monies recoverable otherwise than by way of such compensation.

16E. (1) Without prejudice to any other provision of this Act, if, from the documentary or other evidence in its possession, the Central Government is satisfied, in relation to a tea undertaking or tea unit, that—

(a) the persons in charge of such tea undertaking or tea unit have, by reckless investments or creation of incumbrances on the assets of the tea undertaking or tea unit, or by diversion of funds, brought about a situation which is likely to affect the production of tea, manufactured or produced by the tea undertaking or tea unit, and that immediate action is necessary to prevent such a situation; or

Power to  
take over  
tea under-  
taking  
or tea  
unit  
without  
investi-  
gation  
under  
certain  
circum-  
stances.

(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the tea undertaking or tea unit or for any other reason) and such closure is prejudicial to the concerned tea undertaking or tea unit and that the financial condition of the company owning the tea undertaking or tea unit and the plant and machinery of such tea undertaking or tea unit are such that it is possible to restart the tea undertaking or tea unit and such restarting is necessary in the interests of the general public, it may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit or to exercise in respect of the whole or any part of the tea undertaking or tea unit such functions of control as may be specified in the order.

(2) On the issue of a notified order under sub-section (1) in respect of a tea undertaking or tea unit,—

(a) the provisions of sub-sections (2), (3) and (4) of section 16D, and the provisions of section 16G, shall apply to a notified order made under sub-section (1) as they apply to a notified order made under sub-section (1) of section 16D; and

(b) the provisions of sub-sections (3) and (4) of section 18AA of the Industries (Development and Regulation) Act, 1951, shall apply to the tea undertaking or tea unit, as the case may be, to the same extent as they apply to an industrial undertaking.

65 of 1951.

65 of 1951.

16F. Without prejudice to the provisions of section 18B of the Industries (Development and Regulation) Act, 1951, as applicable to a tea undertaking or tea unit, as the case may be, the person or body of persons authorised under section 16D, or, as the case may be, section 16E, to take over the management of a tea undertaking or tea unit may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 16D or section 16E, between the tea undertaking or the tea unit and any other person; and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith or is detrimental to the interests of the tea undertaking or tea unit, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

Contracts in bad faith, etc., may be cancelled or varied.

16G. (1) Where the management of a tea undertaking or tea unit owned by a company has been taken over by any person or body of persons authorised by the Central Government under this Act, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such company,—

Application of Act 1 of 1956.

(a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed in a meeting of the shareholders of such company shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of such company or for the appointment of 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 Act, and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to such company in the same manner as it applied thereto before the issue of the notified order.

1 of 1956.

Power of Central Government to cancel notified order under section 16D or 16E.

16H. If, at any time, it appears to the Central Government on the application of the owner of a tea undertaking or tea unit or otherwise that the purpose of the order made under section 16D or section 16E, has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and, on the cancellation of any such order, the management or control, as the case may be, of the tea undertaking or tea unit, as the case may be, shall vest in the owner of that undertaking or unit.

Power of Central Government to authorise, with the permission of the Court, persons to take over management or control of tea undertakings or tea units.

16-I. (1) If the Central Government is of opinion that there are possibilities of running or restarting a tea undertaking or tea unit in relation to which an investigation has been made under sub-section (2) of section 16B, and that such tea undertaking or tea unit should be run or restarted for maintaining or increasing the production, supply or distribution of tea, that Government may make an application to the Court by which the company owning such tea undertaking or tea unit has been ordered to be wound up, praying for permission to appoint any person or body of persons to take over the management of the tea undertaking or, as the case may be, tea unit, or to exercise in respect of the whole or any part of the tea undertaking or tea unit, such functions of control as may be specified in the application.

(2) Where an application is made under sub-section (1),—

(a) the provisions of sub-section (2) of section 18FA of the Industries (Development and Regulation) Act, 1951 shall apply to the tea undertaking or tea unit, as the case may be, subject to the modification that for the words "twelve years" occurring in the second proviso thereto, the words "two years" shall be substituted;

65 of 1951.

(b) the provisions of sub-sections (3) to (10) (both inclusive) of section 18FA of the Industries (Development and Regulation) Act, 1951 shall apply to the tea undertaking or tea unit referred to in sub-section (1), to the same extent as they apply to an industrial undertaking.

65 of 1951.

65 of 1951.

16J. The Central Government may, if it is satisfied in relation to a tea undertaking, tea unit or any part thereof, the management or control of which has been taken over under section 16D or under section 16E or under section 16-I, that it is necessary so to do in the interests of the general public with a view to preventing fall in the volume of the production of tea, exercise in relation to such tea undertaking or tea unit or part thereof the same powers as are exercisable by it in relation to an industrial undertaking under section 18FB of the Industries (Development and Regulation) Act, 1951, and the said section and the Third Schedule referred to therein shall apply to a tea undertaking or tea unit accordingly.

Power of Central Government to make certain declarations in relation to tea undertakings or tea units.

16K. (1) Where the management or control of a tea undertaking or tea unit, as the case may be, has been taken over under section 16D or under section 16E or under section 16-I, the Central Government may, at any time during the continuance of such management or control, call for a report from the authorised person on the affairs and working of the tea undertaking or tea unit, and in submitting the report the authorised person shall take into account the inventory and list of members and creditors prepared under section 16L.

Power of Central Government to call for report on the affairs and working of a managed tea undertaking or tea unit.

65 of 1951.

(2) On receipt of the report submitted by the authorised person, the Central Government may exercise all or any of the powers conferred on it by sections 18FD, 18FE and 18FF of the Industries (Development and Regulation) Act, 1951, to the same extent and subject to the same conditions, limitations or restrictions as are specified in the said sections, and the provisions of the said sections shall become applicable to a tea undertaking or tea unit, as the case may be.

16L. For the purposes of this Act, the authorised person shall, as soon as may be after taking over the management of a tea undertaking or tea unit, prepare a complete inventory of the properties, belongings, liabilities and obligations of such tea undertaking or tea unit, as the case may be, and a list of members and creditors of such tea undertaking or tea unit, in accordance with the provisions of section 18FG of the Industries (Development and Regulation) Act, 1951, and the said section shall apply to a tea undertaking or tea unit accordingly.

Preparation of an inventory of the assets and liabilities and list of members and creditors of managed tea undertaking or

Bar of suits and other proceedings in relation to the tea undertakings or tea units.

16M. No suit or other legal proceedings shall be instituted or continued against a tea undertaking or tea unit in respect of which an order has been made under section 16D or section 16E, except with the previous permission of the Central Government or of any officer authorised by that Government in this behalf.

Rules made under Act 65 of 1951 to apply.

16N. Until any rule is made in relation to any matter referred to in this Chapter, the rules made by the Central Government under the Industries (Development and Regulation) Act, 1951, in relation to such matter shall, as far as may be, apply, to the extent they are not repugnant to any provision of this Act or any rule made thereunder and references in such rules to the provisions of that Act shall be construed accordingly.