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THE STATE AID TO INDUSTRIES ACT, 1931

ACT NO. III OF 1931

[22nd October, 1931]

An Act to provide for the giving of State aid to industries in Bangladesh. *

WHEREAS it is expedient to make provision for the giving of State aid to industries in Bangladesh;

¹[* * *]

It is hereby enacted as follows:—

Short title, local
extent and
commencement

1. (1) This Act may be called the ²[* * *] State Aid to Industries Act, 1931.

(2) It extends to the whole of Bangladesh.

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

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) "Board" means the Board of Industries established under section 3;
- (2) "Chairman" means the Chairman of the Board;
- (3) "Director" means the Director of Industries, Bangladesh, and includes any person appointed by the Government to discharge the functions of the Director under this Act;

* Throughout this Act, except otherwise provided, the words "Bangladesh" and "Government" were substituted, for the words "East Pakistan" or "Pakistan" and "Provincial Government" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ Second paragraph of the preamble was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "Bengal" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (4) "Industry" means any industrial business or enterprise, including agriculture, undertaken or conducted by any person;
- (5) "machinery" includes plant, apparatus, tools and other appliances required for carrying on any industrial operation or process;
- (6) "notification" means a notification published in the official Gazette;
- (7) "owner" means the person who owns any industrial undertaking, and includes the successors-in-interest of such person in respect of such undertaking; and
- (8) "prescribed" means prescribed by rules under this Act.

3. (1) The Government shall, as soon as possible after the commencement of this Act, establish a Board to be called "the Board of Industries", for carrying out the purposes of this Act, and consisting of the following members, namely:—

Establishment
of a Board of
Industries

- (a) two non-official members to be appointed by the Government;
- (b) one member, being an employee of the ¹[Bangladesh Bank] to be appointed by Government;
- (c) two members to be elected by the ²[Parliament] from among the members of ²[Parliament];
- (d) one member to be appointed by the Government from the panel of names submitted (in the prescribed manner) by the different registered Chambers of Commerce and Industry at Chittagong;

¹ The words "Bangladesh Bank" were substituted, for the words "State Bank of Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "Parliament" was substituted, for the words "the East Pakistan Provincial Assembly" and "the Assembly" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (e) one member to be appointed by the Government from the panel of names submitted (in the prescribed manner) by the different registered Chambers of Commerce and Industry at Dhaka and Narayanganj;
- (f) one member to be appointed by the Government from the panel of names submitted (in the prescribed manner) by different registered Chambers of Commerce and Industries in ¹[Bangladesh] other than those mentioned in clauses (d) and (e);
- (g) the Director:

Provided that the Board shall have power to co-opt for the discussion of any particular question before it not more than three members specially qualified to advise on the matter in question or having special knowledge of local conditions in the area where the industry in question is situate.

Explanation.—In this sub-section "registered" means registered under section 26 of the Companies Act, 1913.

(2) The Director shall be, *ex-officio*, Secretary to the Board.

Procedure in
default of
election of
members

4. If, by such date as may be fixed by the Government, ²[Parliament] referred to in clause (c) of sub-section (1) of section 3 does not elect the members to be elected by it under the provisions of that section, the Government shall appoint Suitable persons as members from amongst the members of ²[Parliament], and any person so appointed shall be deemed to be a member as if he had been duly elected by the ²[Parliament] failing to elect a member under the said provision.

Chairman and
Vice-Chairman

5. The Board may from time to time elect, for such periods, respectively, as it thinks fit, two of its members to be Chairman and Vice-Chairman.

¹ The word "Bangladesh" was substituted, for the words "the Province" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "Parliament" was substituted, for the words "the East Pakistan Provincial Assembly" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

6. The names of the Chairman and Vice-Chairman and of the appointed and elected members of the Board shall be published by the Government in the official Gazette.

Elections and appointment to be notified in Gazette

7. (1) The Chairman may resign his office by giving notice in writing to the Board; and on such resignation being accepted, shall be deemed to have vacated his office.

Term of office

(2) The Vice-Chairman and any other appointed or elected member may resign his office by giving notice in writing to the Chairman; and, on such resignation being accepted by the chairman, shall be deemed to have vacated his office.

(3) Subject to the provisions of this Act, the appointed or elected members shall hold office for a term of three years and may, on the expiration of such term be re-appointed or re-elected.

(4) Notwithstanding the expiration of the term of three years mentioned in sub-section (3), an appointed or elected member shall continue to hold office until the vacancy caused by the expiration of the said term has been filled.

8. (1) The Government may, by notification, remove the Chairman, Vice-Chairman or any member of a Board if he—

Removal of members

- (a) is absent without leave for more than four months continuously from the jurisdiction of the Board;
- (b) refuses to act or becomes incapable of acting as a member of the Board;
- (c) is declared insolvent;
- (d) is convicted of any such offence or is subjected by a criminal court to any such order as in the opinion of the Government implies a defect of character which unfits him to continue to be a Chairman, Vice-Chairman or member of a Board; or
- (e) without excuse sufficient in the opinion of the Government, is absent without the consent of the Board from more than four consecutive meeting of the Board.

(2) The Government may fix a period during which any person so removed shall not be eligible for re-appointment or re-election.

Casual
vacancies

9. When the place of an appointed or elected member of a Board becomes vacant by his removal, resignation or death, a new member shall be appointed or elected in the manner provided in section 3, and shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred:

Provided that no act of the Board, or of its officers, shall be deemed to be invalid by reason only that the number of members of the Board at the time of the performance of such act was less than the number provided by section 3.

Allowances
and fees

10. The members and staff of the Board and the members of Committees appointed by the Board shall be paid travelling and daily allowances of the prescribed amount and on the prescribed conditions for attending meetings of the Board, and may also be paid fees of the prescribed amount and on the prescribed conditions for attending meetings of the Board, or for performing any duty assigned to them by the Board for the purposes of this Act.

President at
meetings

11. (1) The Chairman, or, in his absence, the Vice-Chairman, shall preside at every meeting of the Board, and shall have a second or casting vote in all cases of equality of votes.

(2) In the absence of both the Chairman and Vice-Chairman, the members present at any meeting may elect one of their number to preside, who shall have a second or casting vote in all cases of equality of votes.

Interested
members not to
vote

12. No member of a Board shall vote on any question coming before the Board for consideration in which (otherwise than in its general application to all persons and properties within ¹[Bangladesh]) he has a pecuniary interest.

Delegation of
functions of
Chairman

13. (1) The Chairman, with the consent of the Board, may authorize the Vice-Chairman by an order in writing to exercise any of the powers conferred or to perform any of the duties imposed on the Chairman by this Act, and thereupon the

¹ The word "Bangladesh" was substituted, for the words "the Province" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

responsibility of the Chairman in respect of such powers and duties shall devolve upon the Vice-Chairman during the continuance of such order.

(2) When the office of Chairman is vacant, the Vice-Chairman shall exercise the functions of the Chairman until a new Chairman is appointed.

14. (1) The Board may make regulations in regard to the following matters, namely:—

Power of Board to make regulations

- (i) the time and place of its meetings;
- (ii) the manner in which notice of meetings shall be given;
- (iii) the conduct of proceedings at meetings;
- (iv) the division of duties among the members of the Board;
- (v) the appointment, duties and procedure of special committees consisting wholly of members of the Board or party of such members and partly of other persons; and
- (vii) generally, the carrying out of the purposes of this Act.

(2) Any regulation made under sub-section (1) which is repugnant to the provisions of any rule made under section 32 shall, to the extent of such repugnancy, but not otherwise, be void.

15. (1) If at any time it appears to the Government that the Board is not properly performing the duties imposed upon it by or under this Act, the Government may, after considering any explanation offered by the Board, by an order in writing specifying the reasons for so doing, remove all appointed and elected members of such Board and direct that the vacancies shall thereupon be filled by election in respect of elected members and by appointment in respect of appointed members or that all the vacancies shall be filled by appointment.

Suppression of Board

(2) From the date of an order under sub-section (1) until the vacancies are filled, all powers and duties of the Board shall be exercised and performed by such person, in such manner, as the Government may direct.

Duty of Board

16. It shall be the duty of the Board to receive, and, after such inquiry, if any, as it deems necessary or may be required by this Act to report to the Government upon applications for State aid, to frame complete schemes and programmes for such State action as the Board considers necessary for the steady and progressive development of industries for the consideration of the Government and to advise the Government on any other matter that may be referred to it.

Documents and reports to be furnished to the Government

17. If the Government so directs, the Chairman shall forward to the Government any document and prepare and submit any report relating to the work of the Board.

18. [Omitted by Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.]

Forms of State aid

19. (1) Subject to the provisions of section 21, the Government on the recommendation of the Board may grant State aid to an industry in all or any of the following forms, namely:—

- (a) the grant of a loan to be secured and repaid in the prescribed manner and upon such terms as may be fixed by the order granting it:

Provided that no such loan shall exceed fifty per cent. of the net value of the assets of the industry to which it is granted after deducting all encumbrances thereon existing at the time when an application is made under section 16. Such value shall be ascertained by the Board in the prescribed manner:

Provided also that every such loan shall, unless the Government, for reasons to be recorded in writing, otherwise directs, be repayable within not more than ten or where the whole loan is secured on land or buildings or both within not more than twenty years after the date of the advance of the loan or, where the loan is advanced in instalments, after the date advance of the last instalment:

Provided also that the Government, for reasons to be recorded in writing, may, on the application of the owner of an industry to which such loan has been granted, in exceptional cases, vary the terms fixed by the order granting the loan;

(b) the guarantee of a cash credit, overdraft, or fixed advance with a bank to be secured and the amount realised thereunder by any industry to be repaid in the prescribed manner;

(c) the taking of shares and debentures:

Provided that the amount paid by the Government for such shares and debentures shall not exceed the amount already paid by other persons for shares and debentures in the same industry;

(d) the guarantee of interest on preference shares or debentures to be secured and the amount realised thereunder by any industry to be repaid in the prescribed manner;

(e) the guarantee of a minimum return of the whole or part of the capital of a joint stock company to be secured and the amount realised thereunder by any industry to be repaid in the prescribed manner;

(f) the grant on favourable terms of land, raw material, firewood, water or any other property vested in the Government.

(g) the payment of a subsidy for—

(i) the conduct of research;

(ii) the purchase of machinery; and

(h) subject to the prescribed conditions, the supply machinery on the hire-purchase system.

(2) In the case of the grant of any of the forms of State aid specified in clauses (f) and (g) of sub-section (1), the Government shall ordinarily in the order granting such aid fix a period of years and a rate of interest on the capital invested in the industry so aided, and, if within such period the industry pays a rate of interest or a dividend in excess of the rate so fixed, the value of the aid granted, as ascertained by the prescribed authority in the prescribed manner, shall be paid at the expiration of the said period by the owner of the industry to the Government.

(3) In no case shall the total value of all State aid granted to an industry, as ascertained by the prescribed persons in the prescribed manner, exceed the limit specified in the first proviso to clause (a) of sub-section (1).

20. [Omitted by Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.]

Industries
which may be
aided

21. State aid may be given—

- (a) in any of the forms specified in sub-section (1) of section 19 to—
 - (i) a new or nascent industry,
 - (ii) an industry to be newly established in an area where such industries are undeveloped, and
 - (iii) a cottage industry, including industries conducted by groups or organisations of artisans;
- (b) in the forms specified in clauses (b) and (g) (i) of the said sub-section to any industry except agriculture; and
- (c) in the forms specified in clause (h) of the said sub-section, to agriculture:

Provided that no State aid shall be given to any joint stock company unless the company is registered in Bangladesh with a ¹[Taka] capital, and the Government approves the composition of the Board of Directors of the company:

Provided further that every recipient of State aid shall make such provision for the training of apprentices as may be prescribed.

Inspection and
returns

22. The owner of any industry—

- (i) when an application has been made for State aid to such industry; or

¹ The word "Taka" was substituted, for the word "rupee" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (ii) during the continuance of State aid to such industry in any of the forms specified in clauses (a), (b), and (c), (d) and (e) of sub-section (1) of section 19 shall—
 - (a) comply with any general or special order of the Government relating to the inspection of the premises, buildings or plant or stock-in-trade, employed, or to be employed, for the purposes of the industry;
 - (b) permit the inspection by the prescribed person of all accounts relating to the industry;
 - (c) submit the accounts relating to the industry to such audit as may be prescribed;
 - (d) furnish in the prescribed manner to the prescribed person full returns of all products manufactured and sold both as regards description and quantity;
 - (e) maintain such special accounts as may be prescribed; and
 - (f) furnish such statements as the Government may require.

23. (1) During the continuance of State aid to any industry under section 19 the profits of such industry shall, if distributed, be distributed only after interest due on debentures and loans has been paid and an amount reasonable in the opinion of the Government has been set aside for depreciation or obsolescence of plant and buildings and a further amount which shall not be less than twenty-five percent of the net surplus available after provision for depreciation or obsolescence has been carried to a reserve fund to be utilised in the prescribed manner and payment made to a sinking fund for the purpose of repayment in the prescribed manner of any loan granted under the provision of clause (a) of sub-section (1) of section 19 or of any sum guaranteed by the Government under the provisions of clauses (b), (d) or (e) of that sub-section.

Disposal of profit during continuance of State aid

(2) No dividend shall be paid to shareholders and no profit shall be taken by the owner in excess of such percentage rate upon the amount of the paid-up capital invested in the industry as the Government may fix from time to time, during the continuance of State aid to the industry.

Power of Board to receive donation, etc.

24. The Board shall have power to receive donations, endowments or contributions from the public on such conditions as may be approved by the Government.

Method of recovery of money due

25. All arrears of monies payable to the Government under this Act, including any interest chargeable thereon and costs, if any, incurred, shall be recoverable as a public demand.

Power to Government to terminate aid on account of fault

26. If the Government decides for reasons to be recorded in writing to terminate aid in respect of an industry on any of the following grounds, namely:—

- (i) that any portion of the aid given has been misapplied, or
- (ii) that there has been a breach by the owner of the industry of the provisions of this Act or of any rule made thereunder or of any condition of the grant, or
- (iii) that the application on which the aid has been granted contained, or was accompanied by, any material statement by the owner which he knew to be false, or any intentional concealment by him of any material fact, which in the opinion of the Government it was his duty to disclose, or that any such false statement or concealment was intentionally made in any inquiry made under this Act by or with the connivance of the owner or in any return under this Act, or in reply to any requisition for information under this Act, or
- (iv) that the industry is being managed in such a manner as to endanger the repayment of the value of State aid granted thereto repayable under this Act,

the Government may make an order that the aid be terminated and, notwithstanding anything contained elsewhere in this Act or in any other enactment, may proceed to recover from the owner as a public demand—

- (a) the whole amount of any loan outstanding, together with such interest as may be due thereon, or
- (b) in cases where the aid is given otherwise than by loan, the money value of the grant as fixed at the time when it was made, together with interest at a rate not exceeding twelve and a half percent, from the date of the grant till the date of realisation, and

- (c) in the cases mentioned in clause (a) or clause (b) the cost of recovery, and, if the Government so directs, the cost of any inquiry made in connection therewith,

and such order shall be final.

27. The Government may charge in respect Fees of applications, inquiries, inspection and audit by whomsoever made under this Act, such fees, if any, as may be prescribed.

Fees

28. During this continuance of State aid to an industry in any of the forms specified in clauses (a), (b), (d) and (e) of sub-section (1) of section 19 the Government may, by appointing directors or inspectors, or otherwise, take such steps as it deems advisable so to control the conduct of the industry as to safeguard the interest of the Government therein.

Supervision of assisted industry

29. All sums payable under this Act shall, unless otherwise provided therein, be recoverable as if they were public demands.

Recovery of sums due

30. Every person who acts on behalf of the Government or the Board under this Act (including every person who conducts an inquiry under this Act) shall be deemed to be a public servant within the meaning of section 21 of the ¹[Penal Code] and no suit, prosecution or other legal proceeding shall lie against any such or any other person for anything which is in good faith done or intended to be done under this Act.

Powers and protection of persons acting under this Act

31. The decision of the Government as to whether the conditions imposed by or under any of the provisions of this Act have been satisfied shall be final.

Finality of decision of Government

32. (1) The Government may, by notification, make rules for carrying out the purposes of this Act.

Power of Government to make rules

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

- (a) the manner of submitting names referred to in clauses (d), (e) and (f) of sub-section (1) of section 3;

¹ The words "Penal Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(b) the payment of travelling and daily allowances and fees referred to in section 10 and the condition of such payment;

¹[* * *]

(e) the manner of securing and repaying the loans referred to in clause (a) of sub-section (1) of section 19;

(f) the manner of ascertaining the value of the assets referred to in clause (a) of sub-section (1) of section 19;

(g) the manner of securing and repaying the amounts referred to in clauses (b), (d) and (e) of sub-section (1) of section 19;

(h) the conditions of the supply of machinery on the hire-purchase system under clause (h) of sub-section (1) of section 19;

(i) the authority by which and the manner in which the values referred to in sub-sections (2) and (3) of section 19 shall be ascertained;

(j) the provision for training referred to in the second proviso to section 21;

(k) the person referred to in sub-section (b) of clause (ii) of section 22;

(l) the audit referred to in sub-clause (c) of clause (ii) of section 22;

(m) the person to whom and the manner in which the returns referred to in sub-clause (d) of clause (ii) of section 22 shall be furnished;

(n) the accounts referred to in sub-clause (e) of clause (ii) of section 22;

(o) the manner of utilising the amount carried to a reserve fund under sub-section (1) of section 23 and the manner of repayment of any loan or any sum guaranteed by the Government referred to in that sub-section;

(p) the fees referred to in section 27; and

(q) generally, to regulate the conduct of its duties, the management of its proceedings, and the preparation and submission to the Government of the minutes thereof by the Board.

¹ Clauses (c) and (d) were omitted by the Schedule IV of the Government of India (Adaptation of Indian Laws) Order, 1937.