

THE MADHYA PRADESH STATE AID TO INDUSTRIES ACT, 1958

(No.20 of 1958)

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THE MADHYA PRADESH STATE AID TO INDUSTRIES ACT, 1958

(No.20 of 1958)

(Received the assent of the Governor on the 21st July 1958; assent first published in the Madhya Pradesh Gazette on the 1st August 1958.)

AN ACT

to regulate the grant of State aid to industries

BE it enacted by the Madhya Pradesh Legislature in the Ninth Year of the Republic of India as follows:-

Chapter 1

Preliminary

1. 1) This Act may be called "The Madhya Pradesh state Aid to Industries Act, 1958"

2) It extends to the whole of Madhya Pradesh.

3). It shall come into force on such date as the State Government may, by notification, appoint in this behalf,

2. Definitions.- In this Act, Unless there be something repugnant in the subject or context,-

1) the "Committee" means the State Aid to Industries Committee constituted under Section 4;

2)"Company" means a company within the meaning of the Indian Companies Act for the time being in force:

3) "Director" means the Director of Industries and includes any officer appointed by the State Government, either by name or by virtue of this office, to perform any of the functions of this Director or under this Act;

4)"Industry" means any industrial business or enterprise involving any manufacturing process or operation conducted or undertaken either by an individual or by a company, association or body of individuals, whether incorporated or not; and includes a Marketing Society, a Processing Society and a Resource Society; within the meaning of the Madhya Pradesh Co-operative Societies Act, 1960);

5) "machinery" includes plant, apparatus, tools appliances and other mechanical equipment required for the purposes of carrying on any industrial operation or process;

6)"Prescribed" means prescribed by rules made under this Act,

3. Classification of industries,- For the purposes of this Act, the industries shall be classified as follows:-

(i) Large-scale industry meaning an industry the capital outlay of which on land, building, installed machinery, railway siding or other fixed assets exceeds rupees ten lakhs;

(ii) medium-scale industry meaning an industry the capital outlay of which on land, building, installed machinery, railway siding or other fixed assets exceeds rupees 3(two) five lakhs does not exceed rupees ten lakhs;

(iii) small-scale industry meaning an industry other than a large scale industry or medium scale industry.

CHAPTER II

GENERAL PROVISIONS REGARDING THE GIVING OF STATE AID

[4.Consitution of State Aid to Industries Committee:- (1) There shall be constituted a State Aid to Industries Committee consisting of the following members, namely:-

(a) the Minister for Commerce and Industry who shall be the Chairman of the Committee;

(b) the Deputy Minister for Commerce and Industry;

(c) five members of the State Legislative Assembly to be elected by the Assembly;

(d) the Director of Industries;

(e) the Managing Director of the Financial Corporation of the State;

(f) Not more than three officers to be appointed by the State Government by virtue of office;

3(g) ten members to be appointed by the State Government, of whom at least one shall represent each class of the industrial specified in section 3 and the remaining shall represent other industrial, commercial and allied interests:]

Provided that for any meeting of the Committee the Chairman may invite any person for advising the Committee on any matter in question before the meeting but the person so invited shall have no vote.

2) The election or appointment of members under clauses (c), (f) and (g) of sub-section (1) shall be notified and such members shall enter upon their offices from the date of such notification.

3) The Director of Industries shall be ex officio Secretary to the Committee.]

5, Term of office:- (1) The members of the Committee elected under clause (c) of sub-section (1) of section 4 shall hold office for a term of three years or till such time as they continue to be members of the Legislative Assembly, whichever is earlier.

(2) The members of the committee appointed under clause (g) of sub-section (1) of section 4 shall hold office for a term of one year.

(3) Notwithstanding anything contained in this section, an outgoing member shall, unless the State Government otherwise directs, continue in office till the date the election or appointment of his successor is notified under sub-section (2) of section 4.

(4) An outgoing member shall be eligible for re-election or re-appointment]

6. Cessation of membership- Notwithstanding anything contained in section 5, if before the expiry of his terms any member elected under clause 3(c) of sub-section (1) of section 4 ceases to be member of the Legislative Assembly, he shall forthwith cease to be a member of the Committee.

7. Casual vacancies.- (1) If any vacancy is caused in the membership of the Committee by reason of the provision of otherwise of a member of the Committee, the vacancy so caused shall in the case of a member of the Committee under clause 2[(c)] of sub-section (1) of section 4, if the Legislative [Assembly is not then in session, be filled in the session next following the date of the vacancy, and in the case of a member of the Committee appointed under clause 1{(g)] of sub-section (1) of section 4, then within a period of 9 months from the date of the vacancy.

(2) No act of the Committee shall be deemed to be invalid by reason only that the number at the time of the performance of such act was less than the number provided under section 4.

8. Members of Committee not to communicate information -(1) No members of the Committee shall communicate or allow to be communicated to any person not legally entitled thereto any information relating to any matter under the consideration of the Committee which has become known to him as such member.

(2) The Committee may, by a resolution passed at a meeting thereof recommend to the State Government the termination of the membership of any member who in its opinion has contravened the provisions of sub-section (1):

Provided that no such resolution shall be passed until the member to be thereby affected has been given a reasonable opportunity of being heard by the Committee against the action proposed to be taken in regard to him.

(3) Upon a recommendation made under sub-section (2), the State Government may, by notification, terminate the membership of such member.

9. Forms of State aid:-State aid may be given in all or any of the following forms, namely :-

- (a) the grant of a loan;
- (b) the guarantee of a cash credit, overdraft or fixed advance with a bank;
- (c) the guarantee of a minimum return on the whole or part of the capital of a joint-stock company for a period fixed in accordance with rules made under this Act;
- (d) underwriting the issue of stock, shares, bonds or debentures by a limited joint-stock company;
- (e) the guarantee of principal and interest on debentures issued for or by a limited joint-stock company;
- (f) the acquisition of shares in a limited joint stock company either by the payment of money or in consideration of the grant of any facility specified in clause (e), according as the State Government may deem fit;
- (g) the grant, on favourable terms, of land, raw material, fuel, water or any other property or right vested in the State Government, subject to the provisions of any law, rule or order for the time being in force;
- (h) the grant, free of charge or on favourable terms, of the service of experts or persons in the service of the Government for starting or advising an industry ;
- "(h-1) guarantee of the price of machinery and equipment purchased by any industry on a hire purchase agreement from the National Small Industries Corporation or any other concerns approved by the State Government"; and

(i) the payment of subsidy-

(i) in the case of any large-scale or medium scale industry, for the conduct of research; and for such other purposes as the State Government may by notification specify;

(ii) in the case of any scale industry, for one or more of the following purposes, namely :-

(a) the purchase of land, machinery and equipment;

- (b) the construction of factory, buildings, godowns, wells, watch-house;
 - (c) the making of technical improvements in the machinery in actual use in the industry;
 - (d) the employment of efficient managerial and supervisory personnel for a limited period;
 - (e) the training of workers employed in the industry;
 - (f) for the conduct of research
 - (g) for such other purpose as the State Government may by notification specify.
10. Industries to which several forms of State aid may be given :- (1) State aid may be given-
- (a) in any of the forms specified in section 9, to -
 - (i) in new or nascent large-scale industry or medium scale industry;
 - (ii) a large-scale industry or medium scale industry newly established in an area where such industries are undeveloped;
 - (iii) any large-scale industry or medium scale industry other than those specified in sub-clauses (i) and (ii) where the State Government is satisfied that special reasons exist for such aid; or
 - (iv) any small-scale industry;
 - (b) in the forms specified in clauses (b), (c), (g) and (h) of the said section, to any industry.
- (2) The State Government may require any industry in receipt of State aid to locate its head office in the State.

Explanation:- In the case of any industry which is a company registered under the Indian Company Act, 1913 (VII of 1913) or the Companies Act, 1956 (1 of 1956), the expression "head office" means its registered office within the meaning of the Act under which it was registered.

Formation of a company:-

11. (1) The State Government may take such steps as are necessary or desirable to secure the formation of a limited company conforming to the prescribed conditions and have it registered under the Companies Act, 1956 (1 of 1956) with the object of providing industrial credit.
- (2) The State Government may, with regard to industries generally or to any particular class or industries, and subject to such conditions or restrictions as it may deem fit to impose

delegate to the company with all or any of its powers under this Act other than the power to make rules under section 30.

(3) Rules shall be made under this section regulating the conditions subject to which a company shall be formed under this section and such rules may provide that a breach of any such or conditions shall be punishable with fine which may extend to one hundred rupees.

12. 1) Form and contents of application for State aid :- (1) Applications for State aid shall be made in such form and shall contain such information as may be prescribed.

2) Every application shall be placed before the Committee for its advice and no application shall be allowed if two- third of the members of the Committee present at the meeting advice its rejection.

(3) If the extent of the aid applied for exceeds rupees five lakhs, and in any other case in which this procedure may be considered necessary, the State Government shall publish a notice in the prescribed manner calling upon any person engaged in the same kind of industry who objects to the grant of the aid applied for, to State hear such objections and make or cause to be made such enquiry as may be necessary.

(4) The State Government may refer to the Committee any matter relating to the establishment of an industry in the State or to the grant of State aid under this Act or any industry and it shall be the duty of the Committee to examine the matter referred to it and to advise the State Government on it.

13. Member of the Committee not to take part in the proceeding in which he is pecuniarily interested :- No member of the Committee shall vote or take part in the discussion of any question coming up for consideration at a meeting of the committee, if the question is one in which he or any of his relatives has any direct or indirect pecuniary interest or he is interested in such question in his professional capacity on behalf of his client or as an agent.

Explanation:- For the purpose of this section, expression "relative" shall have the same meaning as assigned to it under section 6 of the Companies Act, 1956 (1 of 1956).

14. (1) The State Government may, before granting State aid to any industry or during the continuance of any State aid so granted, impose such conditions as may in its opinion be necessary or expedient to safeguard its interests by securing the training of apprentices.

(2) Any conditions imposed under sub-section (1) shall be notified.

chapter III:- Provisions regulating the giving of State Aid

15. (1) No loan shall be granted to any large-scale industry or medium scale industry of an amount exceeding 66 per cent or to any small-scale industry of an amount exceeding 75 per cent, of the net value of the assets of the industry after the deduction of the value of all encumbrance existing at the time when the application is made;

Provided that the State Government may, subject to such restriction as may be prescribed, relax the provisions of this section, in the case of any particular application in regard to an industry referred to in sub-clauses (i) and (iv) of clause (a) of sub-section (1) of section 10.

Explanation:- In this sub-section the net value of the assets of any industry includes the value of any collateral security prescribed under section 16.

(2) the valuation of the assets under sub-section (1) shall be made by such persons and in such manner as may be prescribed. For the purpose of such valuation the additional assets which may be created by the grant of such State aid may be taken into account to such extent as may be prescribed.

16. Loan how secured:- Every loan granted to an industry shall be secured by a mortgage or floating charge upon the whole of the assets of such industry subject to any encumbrances existing at the time when the loan is granted, any by such collateral security, if any, as the State Government may prescribe.

17. Inspection and return:- In any case in which an application for a State aid has been made under this Chapter, the applicant and, at any time during the continuance of the State Aid, the grantee shall be bound-

(a) to comply with any general or special order of the State Government relative to the inspection of the premises, buildings, machinery a stock-in-hand of the industry;

(b) to permit the inspection of all account relative to the industry;

(c) to furnish full returns of all products, manufactured or sold both as regards description and quantity;

(d) to maintain such special accounts and to furnish such statement as the State Government may, from time to time, require; and

(e) to submit the accounts of the industry to such audit as the State Government may prescribe:

Provided that before requiring any grantee to comply with any of the requirements of this section, reasonable notice shall be given to him.

18. If at any time the outstanding balance of the loan granted under this Act is found to exceed the percentage fixed under section 15, the State Government may either recover such balance as is in excess of such percentage or accept such additional or collateral security as it may deem sufficient. Power of State Government to so adjust security during currency of loans.

19. Notwithstanding anything contained in any other provisions of this Act, in the case of an industry to which State aid has been given in any form, if the grantee-

- (a) fails to comply with any order under clause (a) of section 17;
- (b) does not permit or obstructs the inspection of the accounts of the industry.
- (c) makes default in respect of any of the particulars specified in clauses (c), (d) and (e) of section 17;
- (d) disposes of any profits in contravention of section 24;
- (e) contravenes any rule framed under section 30; or
- (f) commits any breach of any condition laid down for the grant of the State aid; or

If on inspection of the accounts, returns and statements or audit report of such industry, the State Government is of opinion that the State aid should be withdrawn, the State Government may, after considering any representation the grantee may make within such time as the State Government may allow in this behalf, make an order directing-

- (i) that the balance of any loan outstanding shall be recoverable forthwith;
- (ii) that the guarantee given in pursuance of clause (b) of section 9 shall cease from the date of such order;
- (iii) that the full value of the land, if any, given under clause (g) of section 9 shall be payable forthwith and that on failure to make such payment the State Government shall be entitled to re-enter and take possession of the land;
- (iv) that the full value of any other State aid given under clause (g) or (h) of section 9 and enjoyed till the date of order shall be payable forthwith and the grant of such State aid beyond such date shall be discontinued,
- (v) that an amount equal in value to the subsidy given under clause (i) of section 9 shall be repayable forthwith;

Provided that the State Government may, in lieu of any action as aforesaid, accept from such grantee such sum of money as it may deem fit.

- 20 (1) Every loan granted under this Chapter shall be made repayable by instalments within such period from the date of the actual advance of the loan, or when the loan is advanced instalments, from the date of actual payment of the last instalment, and shall bear interest at such rate and be payable in such manner as may be fixed by the order granting the loan. Repayment of loans.
- (2) The period fixed as aforesaid shall not exceed twenty years unless the State Government, by general or special order, extends the same.

(3) Notwithstanding anything contained in sub-section (1), where any sum is received by the State Government from the Khadi and Village Industries Commission constituted under the Khadi and Village Industries Commission Act, 1956 (No, 61 of 1956), or any other body corporate for the purpose of granting interest free loan to small scale industries, any loan granted by the State Government out of such sum shall not bear any interest.

- 21 The provisions of sections 15, 16 and 18 in respect of loans shall, subject to any rules made under this Act, apply so far as may be to the guarantee of debentures issued to the public, a cash credit and an overdraft or fixed advance with a bank. Guaranteeing of cash credits etc,, with banks.
- 22 The condition of the guarantee of a minimum return on the whole or part of the capital of any industry shall be that an amount equal to the sum paid or part thereof as may be determined by the State Government shall be repaid to the State Government at the close of such term of years as may be fixed by the State Government in this behalf, if within that term the industry be shown to the satisfaction of the State Government to be paying interest or a dividend upon the capital invested in such industry in excess of such rate as the State Government may determine. Guarantee of a minimum return on capital.
- 23 (1) No subsidy for the conduct or research shall exceed forty percent of the cost thereof and no subsidy for any other purpose shall exceed fifty per cent of the cost thereof. Subsidies.
- (2) The condition of a grant of subsidy for the purchase of machinery shall ordinarily be that an amount equal in value thereto, as may be determined at the time of making the grant, shall be repaid to the State Government at the close of such term of years as may be fixed by the State Government in this behalf, if within that term the industry be shown to the satisfaction of the State Government to be paying interest or a dividend upon the capital invested in such industry in excess of such rate as the State Government may determine.
- (3) The condition of a grant of subsidy for the conduct of research or grant, on favourable terms, of land, raw material, fuel, water or any other property or right of the State Government or the grant, on favourable terms, of the services of experts the value thereof, as may be determined, at the time of making the grant or concession, shall be repaid to the State Government at the close of such term of years as may be fixed by the State Government in this behalf, if within that time the industry be shown to the satisfaction of the State Government to be paying interest or a dividend upon the capital invested in such industry in excess of such rate as the State Government may determine.
- (4) Without prejudice to the provisions of sub-section (3), the condition of a grant of a subsidy for the conduct of a research may further be that the State Government shall have a share not exceeding twenty-five percent in the patent rights arising out of such research.
- (5) State aid granted to any industry shall be discontinued if the industry be shown to the satisfaction of the State Government to be paying interest or a dividend upon the capital invested in such industry in excess of such rate as the State Government may determine.

24 (1) Until the conditions on which the aid has been granted are fulfilled the profits of the industry in respect of which aid has been granted shall, if taken or distributed, be taken on distributed only after interest due on debentures and loans has been paid and a reasonable amount has been set aside for depreciation or obsolescence of plant and buildings and further reasonable amount has been carried to reserve fund to be utilized in such manner as the State Government may approve. Disposal of profits of when conditions of State aid not fulfilled.

(2) No recipient of State aid shall pay any dividend or distribute or take any profit in excess of such percentage rate upon the amount of the capital of the industry as the State Government may, from time to time fix, until the conditions on which State aid has been granted are fulfilled;

Provided that the State Government may relax the provisions of this section in the case of any industry aided by the grant, on favourable terms, of land, raw material, fuel, water, or any other property or right of the State Government or the grant, free charge or on favourable terms of the service of experts or persons in the service of the State Government or by the payment of subsidy for the conduct of search.

25 Notwithstanding anything contained in this chapter, if in any case the amount or value of the State aid given there under amount to or exceeds five lakhs of rupees, or the face value of the shares held by the State exceeds 25 per cent of the authorised share capital, the State Government shall, and in any other case may, by the appointment of Government Directors or otherwise take power to ensure such control over the conduct of the industry as shall suffice in its opinion to safeguard its interest. Government control of industry aided.

26. (1) If any Director, Managing Agent, Manager, secretary or other office of any company or other body corporate to which State aid has been given, commits a breach of any order passed or rule made under this Act subject to which such State aid has been given or of any provision of this Act or any condition notified under section 14, he shall be liable to a fine which may extend to one thousand rupees. Penalty for breach

2) No court shall take cognizance of any offence punishable under subsection(1) except on a complaint in writing by the

Director.

3) Any contract made on behalf of a company or other body corporate in contravention of any condition subject to which State aid has been given to it shall as against such company or such body corporate be void; but nothing herein contained shall prejudice the right of any person affected by such contract to claim by due process of law, any relief to which he may be entitled against the person entering into such contract.

27. (1) All moneys recoverable under this Chapter including any interest chargeable thereon and costs, if any, incurred, if not paid when they are due may be recovered by the Collector on a requisition from the Director, from the person aided and his surety, if any, as if they were Recovery of moneys due under this Chapter.

arrears of land revenue.

2) When any sum due as afore4said is paid to the Director by the surety or is recovered from his or out of his property by the Director, the Director shall, on the application of the surety, so far as possible, recover the sum from the person aided and pay it to the surety.

- 28 (1) Save as otherwise may be prescribed nothing in sub-section (2) of section 12 and sections 16 and 17 shall apply to small scale industries. Special provision for small scale industries

(2) The State Government may, by order, direct that all or any of the powers conferred on it by or under this Act or rules made there under shall, in relation to small scale industries, be exercisable by any officer or authority subordinate to it and when any powers are so delegated, they shall be exercised subject to such directions as the State Government may issue from time to time .

(3) Notwithstanding anything contained in any law for the time being in force, the powers referred to in subsection (2) may also be delegated by the State Government in the same manner and to the same extent as is specified therein to the M.P.Financial Corporation or a Co-operative Credit Society registered under any law relating to co-operative Societies in force in any region of the State and when any powers are so delegated, they shall be exercised subject to such directions as the State .Government may issue from time to time

Chapter IV-Supplemental

29. (1)The decision of the State Government as to whether the conditions laid, down in or under any or the provisions of this Act have been satisfied shall be final, and no suit shall be brought in any Civil Court to set aside or modify any other made thereunder. Finality of decision of State Government and bar of suits and proceedings in Civil and Criminal Courts.

2) No prosecution, suit or other proceedings shall lie against any servant of the Government or other aughtority vested with powers under this Act for anything in goods faith done or intended to be done thereunder.

30. (1) The State Government may, after previous publication, make rules consistent with this Act for carrying out of all or any of its purposes. Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules regulating or determining all or any of the following matters, namely:-

(a) the manner of election of the members of the Committee referred to in clause (c) of sub-section (1) section 4, and the conduct of proceedings of the Committee including the manner in which notice of a meeting shall be given, the fixing of a quorum and the due record of proceedings;

(b) the fixing of the period of the guarantee of a minimum return under section 9;

(c) regulating the conditions subject to which company shall be formed

under section 11;

(d) the manner of making application for State aid under sub-section (1) of section 12, and the manner of publishing the notice under sub-section (3) of the said section;

(e) the manner of ascertaining the net value of the assets of an industry and the percentage of such value which may be granted as a loan under section 15;

(f) the nature of the security to be taken and the condition under which State aid may be given under section 16;

(g) the inspection under section 17 of the premises, building, machinery and stock-in-hand and the mode of keeping and auditing the account and of furnishing returns of any industry in respect of which State aid has been given;

(h) the guaranteeing by the State Government debentures issued to the public and of cash credits, overdrafts or fixed advances with banks under section 21 and the recognition of banks for this purpose;

(i) the fixing of the period for the repayment of loans under section 20 and the conditions and date of repayment of sums paid under the guarantee of a minimum return under section 22 and of subsidies and grants under section 23;

(j) the application under section 24 of profits in the cases in which the conditions of which State aid has been given have not been fulfilled.

(k) the appointment and functions of Government directors under section 25 and the prescribing of other methods of control of industries to which State aid has been given;

(l) the conditions under which and the security on which loan may be granted or guarantees of debentures or of a cash credit, overdraft or fixed advance with a bank given to the industries specified in section 28.

(m) the recovery of any sum payable under this Act.

31. No State aid shall be given by the State Government to any industry save in accordance with the provisions of this Act:

No State aid to be given save in accordance with the provisions of Act.

Provided that nothing in this Act shall apply to the power of the state Government to -

a) Start or conduct an industry for experimental purposes or with a view to stimulate industrial development or start or conduct an industry either as a State monopoly or a State managed unit;

b) assist an industry by agreement to purchase on business terms the

whole or a portion of the product of the same;

c) assist an industry in connection with industrial education or training of apprentices;

d) assist an industry by giving free of charge or on favourable terms the service of Government experts or other persons in the service of the State Government to advise, start or supervise any industry for a period not exceeding one year

(e) acquire land for a company under the provisions of the Land Acquisition Act, 1894 (1 of 1894);

(g) assist a company formed for the purpose of supplying electricity, gas, water or any other service likely to prove useful to the general public.

(h) assist any small-scale industry started or proposed to be started for the benefit of bona fide craftsmen hereditary artisans, the educated unemployed or destitute and helpless persons.

31. A .Notwithstanding anything contained in his Act, where contained in this act, where the State Government is of opinion that it is necessary or expedient in public interest so to do, it may, by order, specifying reasons thereof grant State Aid to any industry in such forms, and in such manner , to such extent and subject to such conditions as may be specified in the order". Grant of State Aid in order cases

32. (1) The Central Provinces state Aid to Industries Act, 1933 (XII of 1933), and the Madhya Bharat state Aid to Industries Act, Samvat 2009 (Act No.12 of 1952), are hereby repealed.

(2) Notwithstanding the repeal of the acts specified in sub-section (1), such repeal shall not affect-

(i) the previous operation of the acts so repealed or anything duly done or suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired accrued or incurred under the Acts so repealed; or

(iii) any penalty, forfeiture or punishment incurred accrued of any offence committed against the Acts so repealed; or

(iv) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued and enforced and any such penalty, forfeiture and punishment may be imposed as if this Act had not been passed.

(3) Subject to the provision of sub-section (23) anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, form,

bye-law or scheme framed) under the Acts so repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.