



The Orissa State-Aid to Industries Act, 1978

Act 32 of 1978

Keyword(s):

Co-Operative Society, Industry, Machinery, Small Scale Industry, Village Industry

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

ORISSA ACT 32 OF 1978

THE ORISSA STATE-AID TO INDUSTRIES ACT, 1978

CONTENTS

PREAMBLE

SECTIONS

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

CHAPTER II

GENERAL PROVISIONS REGARDING THE GIVING OF STATE-AID

3. Constitution of Board of Industries
4. Forms of State-aid
5. Delegation of powers to give certain forms of State-aid
6. Industries to which several forms of State-aid may be given
7. Application for State-aid

CHAPTER III

PROVISIONS REGULATING THE GIVING OF STATE-AID
OTHERWISE THAN BY THE SUPPLY OF
MACHINERY ON HIRE PURCHASE
SYSTEM

8. Limitation of amount of loan
9. Loan how to be secured
10. Inspection and returns
11. Power of State Government to adjust security during the currency of loan
12. Guaranteeing of cash credit with Banks
13. Termination of State-aid
14. Repayment of loans
15. Power of State Government to recover loan
16. Subscription for shares or debentures or guarantee of minimum return of capital
17. Subsidies
18. Disposal of profits when conditions of State-aid not fulfilled
19. Government control of aided industries
20. Recovery of money due under this Chapter
21. Levy of fees

CHAPTER IV

SUPPLY OF MACHINERY ON THE HIRE PURCHASE SYSTEM

22. Percentage of cost to be deposited by hirer
23. Particulars to be specified in the order when application is allowed
24. Conditions of supply of machinery on hire purchase system
25. Consequence of default by the hirer
26. Option of hirer to purchase machinery seized in default
27. Termination of hiring by hirer
28. Liability of hirer on termination of hiring under sections 24 and 26
29. Termination of hiring on payment of cost of machinery
30. Penalties
31. Recovery of sums due under this Chapter

CHAPTER V

MISCELLANEOUS

32. Supersession of Board
33. Removal of member
34. No State-aid to be given save in accordance with provisions of this Act
35. Remission of interest
36. Exemption of certain classes of persons
37. Finality of decision of State Government and bar of suits and proceedings in Civil and Criminal Court.
38. Power to make rules
39. Repeal and savings

ORISSA ACT 32 OF 1978
[THE ORISSA STATE-AID TO
INDUSTRIES ACT, 1978]

[Received the assent of the Governor on the 26th
November 1978, first published in an extraordi-
nary issue of the Orissa Gazette, dated
the 3rd November 1978]

AN ACT TO REGULATE THE GRANT OF
STATE-AID TO INDUSTRIES

BE it enacted by the Legislature of the State of
Orissa in the Twenty-ninth Year of the Republic of
India, as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the Orissa State-Aid Short title,
to Industries Act, 1978. extent and
Commence-
ment.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force on such date as the
State Government may, by² notification, appoint in
that behalf.

2. In this Act, unless the context otherwise Definitions
requires,—

(a) "Board" means the Board of Industries
constituted under section 3;

(b) "co-operative society" means a co-opera-
tive society registered or deemed to be
registered under the Orissa Co-operative
Societies Act, 1962;

(c) "co age industry" means any industrial
business or enterprise carried on in any
premises to which the Factories Act,
1948 does not apply and includes any
industry carried on by a co-operative

Orissa Act
2 of 1963.

63 of 1948

1. For Statement of Objects and Reasons see *Orissa Gazette*, Extraordi-
nary, dated the 16th February 1978 (No. 202) and for Report of the Select
Committee see *Orissa Gazette*, Extraordinary, dated the 26th August 1978
(No. 1208).

2. Came into force with effect from the 1st February 1979, Vide-Industries
Department Notification No. (2860), dated the 31st January 1979.

(Sec. 2—contd.):

society or an individual himself or with the help of members of his family and labourers includes sericulture, pisciculture, horticulture, dairy farming, poultry farming, bee keeping and lac making;

- (d) "District Industries Officer" means any person appointed by the State Government to discharge the functions of a District Industries Officer under this Act;
- (e) "Director" means the Director of Industries and includes any person appointed by the State Government to discharge the functions of the Director under this Act;
- (f) "industry" means any industrial business or enterprise including one connected with Agriculture, conducted and undertaken either by an individual or by a Co-operative Society or by a Company, association or body of individuals whether incorporated or not and includes a marketing society established under the Orissa Co-operative Societies Act, 1962; Orissa Act
2 of 1963.
- (g) "machinery" includes plant, apparatus, tools, appliances and other mechanical equipment required for the purposes of carrying on any industrial operation or process;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "Small scale industry" means an industry the capital outlay of which, at its inception, on plant and machinery does not exceed—
- (1) fifteen lakhs of rupees in the case of an industry which is ancillary to another industry not being a cottage or village industry;
 - (2) ten lakhs of rupees in the case of any other industry; or such other sum as the State Government may, from time to time determine;

(Sec. 3)

- (j) "village industry" means any industry which forms the normal occupation, whether whole-time or part time, of any class of the rural population of the State.

CHAPTER II

General Provisions regarding the giving of State-aid

3. (1) The State Government shall constitute a ^{Constitution} Board of Industries consisting of the following ^{of Board of} members, namely:—

- (a) five members to be elected in the prescribed manner by the State Legislative Assembly from among its members:

Provided that in the case of dissolution of the State Legislative Assembly, the members elected under this clause and holding office on the date of such dissolution shall continue in office till new members are elected by the said Assembly after its reconstitution;

- (b) five members to be elected in the prescribed manner, one by each of five such associations or other bodies as the State Government may select as best representing any particular class of Industries or commercial and allied interests;
- (c) Secretaries to the State Government in the Finance, Irrigation and Power and the Industries Departments, the Director, the Registrar of Co-operative Societies, the Managing Director of the State Financial Corporation and the Managing Director of the State Small Scale Industries Corporation who shall be *ex-officio* members; and
- (d) five members to be appointed by the State Government of whom at least two shall be from such areas of the State are declared, from time to time, by the Government of India to be industrially backward areas.

(2) The Chairman and the Secretary of the Board shall be appointed by the State Government from among the members of the Board.

(Sec. 3—contd.)

(3) The names of the members who have been elected or appointed shall be published in the Official Gazette.

(4) Save as otherwise provided in this Act, a member elected under clause (b) of sub-section (1) or appointed under clause (d) of that sub-section shall hold office for a period of three years commencing from the date of publication of his name in the Official Gazette:

Provided that the State Government may, from time to time, by notification, extend the said term of office by such period not exceeding one year at a time, as may be specified in the notification, so, however, that the total period of extension shall in no event exceed two years.

(5) Any casual vacancy in the membership of the Board shall be filled up by election or, as the case may be, appointment in the same manner as is provided in sub-section (1) and the member so elected or appointed shall hold office for the unexpired term of his predecessor in office.

(6) The Board shall, for the discussion of any particular question coming up for consideration before it, have power to co-opt experts specially qualified to advise on the matter in question or having special knowledge of local conditions in any area where the industry in question is situate:

Provided that a member so co-opted shall have no right to vote.

(7) No member of the Board shall vote or take part in the discussion of any question coming up for consideration at a meeting of the Board if the question is one in which he or his partner or relatives have any direct or indirect pecuniary interest or in which he is interested professionally on behalf of a client or as agent for any person other than the State Government, the Central Government or a local authority.

Explanation—For the purposes of this section, the expression “relative” shall have the same meaning as assigned to it under section 6 of the Companies Act, 1956.

(Sec. 4)

(8) Whenever the Secretary to Government in the Finance Department is unable to attend any meeting of the Board, he may nominate any officer of that Department, who shall attend such meeting and shall have the same rights and privileges as the said Secretary has in respect of such meeting.

(9) No act or proceedings of the Board shall be deemed to be invalid merely by reason of the existence of any vacancy in the Board.

4. State-aid may be given in all or any of the following forms:— Forms of State-aid.

- (a) the grant of a loan;
- (b) the giving of a guarantee in respect of a loan, cash credit, over-draft or fixed advance with a Scheduled Bank, Life Insurance Corporation, Co-operative Society, or with the Industrial Financial Corporation of India, the Orissa State Financial Corporation or such other Industrial Financing Agency as may be approved by the State Government;
- (c) the taking of shares or debentures;
- (d) 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 the rules made under this Act;
- (e) the underwriting of the issue of stocks, shares, bonds or debentures by a limited joint stock company;
- (f) 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 provision of any law, rule or order for the time being in force;
- (g) the payment of subsidy—
 - (1) in the case of Small-scale or Cottage Industry, for one or more of the following purposes, namely:—
 - (i) the purchase of land, machinery and equipment;
 - (ii) the construction of factory buildings, godowns, wells and sheds;

(*Sec. 4—contd.*)

- (iii) technical improvement to the machinery used in the industry;
 - (iv) the employment of efficient Manager and Supervisory personnel for a limited period;
 - (v) the training of workers employed in the industry;
 - (vi) the conduct of research; or
 - (vii) any other purpose as the State Government may, by notification, specify;
- (2) in the case of any other industry, for the conduct of research or purchase of machinery or for any other purpose as the State Government may, by notification, specify;
- (h) the supply of machinery on the hire purchase system including the guarantee of the price of the machinery and equipment purchased by any industry on hire purchase agreement from the National Small-scale Industries Corporation or any other concern approved by the State Government;
 - (i) the supply of electrical energy at concessional rates from a source which is the property of the State Government or the grant of subsidy or rebate on the rate (including minimum charges) payable by any industry for supply of electricity to it;
 - (j) the lending of services of experts or persons in the service of the Government for starting or advising an industry free of charge or on favourable terms; and
 - (k) to any individual, by the grant of a loan for the purpose of investment in the share capital of any Co-operative Society or any joint stock company within the meaning of the Companies Act, 1956¹ of 1956, engaged in any industry or for purchase of share held by Government in any Government company, within the meaning of the said Act engaged in any industry.

(Secs. 5—7)

5. Subject to such conditions or restrictions as it may deem fit to impose the State Government may, by notification, from time to time, delegate its power to give State-aid in one or more of the forms specified in clauses (a), (b), (g) and (h) of section 4 in favour of such authorities, not being below the rank of a District Industries Officer, as may be specified in the notification.

Delegation of power to give certain forms of State-aid

6. (1) State-aid may be given in any of the forms specified in section 4.

Industries to which several forms of State-aid may be given.

(2) The State Government may require any industry in respect of State-aid to locate its Head Office within the State of Orissa.

Explanation—“Head Office” means the place from which the affairs of the company, business or industry are actually controlled and includes the registered office of a company registered under the Companies Act, 1956.

1 of 1956.

(3) Every industry in receipt of State-aid shall make such provision for the training of apprentices as may be prescribed.

7. (1) Applications for State-aid shall be made to the authority empowered to give the State-aid in such form and shall contain such particulars as may be prescribed.

Application for State-aid

(2) No State-aid shall be given of an amount or value exceeding such sum as may be prescribed unless the application therefor has been published in the prescribed manner together with a notice calling upon persons objecting to the giving of such aid to submit their objections in such manner as may be prescribed.

(3) The State Government or the authority to whom the State Government has delegated its power to give State-aid, as the case may be, shall consider every such objection and after making such enquiry, if any, as it may deem necessary, shall make an order either admitting or disallowing it.

(4) Every application for State-aid of an amount or value exceeding thirty thousand rupees in respect of any one industry not being an application for the disposal of which power has been delegated under

(Sec. 8)

section 5, shall be placed before the Board at a meeting for its advice and no such application shall be allowed if a majority of the members of the Board present at the meeting advise its rejection.

(5) If an application for State-aid is rejected in whole or in part by an authority to whom power has been delegated under section 5, the State Government may, on its own motion or on an application made in this behalf, revise the order and give such aid in such form and of such amount as it may deem fit.

(6) Every application for State-aid shall, as far as practicable be disposed of within a period of three months from the date of the application.

CHAPTER III

Provisions regulating the giving of State-aid otherwise than by the supply of machinery on hire purchase system

Limitation of amount of loan.

8. (1) No loan shall be granted to any industry, other than a small scale industry, of an amount exceeding seventy per cent or to any small scale industry of an amount exceeding ninety per cent of the net value of the assets of the industry after deduction of the value of all encumbrances existing at the time the application is made :

Provided that in the case of a new or nascent small scale industry, the State Government may grant a loan equal to the value of the security offered including collateral security, if—

- (i) the State Government is satisfied that it is necessary in the interest of the State to promote the development of such industry and the industry can not be established without the grant of assistance ; and
- (ii) the applicant agrees to associate a nominee of the State Government with the management of the industry and to regulate expenditure out of such loan in the prescribed manner :

Provided further that subject to such other conditions as may be prescribed, a loan for a period not exceeding two years may be given to a small scale industry on the security of movable property including stock in trade.

(Secs. 9-10)

(2) Notwithstanding anything contained in sub-section (1), a loan of an amount not exceeding five hundred rupees may be given in the case of an industry owned or managed by an artisan on the personal bond of the applicant or on the security of one or more personal sureties.

(3) The valuation of the assets or the security, as the case may be, under sub-section (1) shall be made in the prescribed manner by the Director or any other person authorised by him in that behalf.

Explanation—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.

9. Every loan granted to an industry shall, subject to the provisions of section 8, be secured by a mortgage or a floating charge upon the property of the industry subject to any encumbrances existing at the time when the loan is granted and of such collateral security, if any, as the State Government may require.

Loan how to be secure.

Explanation—For the purposes of this section the expression “property of an industry” shall not include raw materials acquired for the purposes of finished goods produced by or the stock in trade or other floating assets of the industry.

10. In any case in which an application for a loan has been made under section 7, the applicant and at any time during the currency of the loan that has been granted, the grantee, shall be bound—

Inspection and returns.

- (a) to comply with any general or special order of the State Government or the Director of Industries relating to the inspection of the premises, buildings, machinery and stock-in-hand of the industry;
- (b) to permit the inspection of all accounts relating to the industry;
- (c) to furnish in the prescribed manner full returns of all products manufactured or sold both as regards description and quantity;

(Secs. 11—13)

(d) to maintain such special accounts and to furnish such statements 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, notice shall be given to him in the prescribed manner.

Power of State Government to adjust security during the currency of loan.

11. If at any time the outstanding balance of the loan granted under this Act is found to exceed the percentage specified in section 8, the State Government may either recover so much of such balance as is in excess of such percentage or accept such additional or collateral security as it may deem sufficient.

Guaranteeing of cash credit with Banks.

12. (1) The provisions of sections 8 to 11 in respect of loans shall, subject to any rules that may be made under this Act, apply, so far as may be, to guarantees of loan, cash credit, overdraft and fixed advances with a scheduled Bank and to debentures issued to the public.

(2) Nothing in sub-section (1) shall apply to any cottage industry for which the State-aid granted does not exceed one thousand rupees in value or to a small-scale industry other than a cottage industry for which the State-aid granted does not exceed five thousand rupees in value or to an individual to whom the State-aid granted for investment in the share capital of a co-operative society or a joint-stock company does not exceed five hundred rupees.

Termination of State-aid.

13. (1) The State Government or the authority who has sanctioned the State-aid may, after considering the explanation, if any, offered by the owner of any industry, order termination of State-aid sanctioned to such industry on any of the following grounds, namely:—

(a) that any portion of the State-aid has been mis-applied;

(Sec. 13—Contd.)

- (b) that there has been 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;
- (c) that the application on which the State-aid has been granted contained or was accompanied by any material statement by the owner which he knew to be false, or that there has been any intentional concealment by him of any material fact which, in the opinion of the State Government or the said authority it was his duty to disclose or that any such false statement or concealment was intentionally made in any enquiry held under this Act or in any return furnished under this Act or in any reply to any requisition for information issued under this Act or with the connivance of the owner or person in charge of the management of the industry ;
- (d) that the grantee has failed to comply with any order under clause (a) of section 10 or does not permit or objects to the inspection of the accounts of the industry or makes default in complying with the provisions of any of the clauses (c), (d) and (e) of section 10 ; or
- (e) that the industry is being managed in such a manner as to impail, the repayment of the value of the State-aid granted thereto.

(2) Subject to such conditions or restrictions as may be prescribed, the State Government may delegate to such authority as may be prescribed, its power under sub-section (1) to terminate the State-aid of an amount or value not exceeding thirty thousand rupees in respect of any one industry.

(3) Any person aggrieved by an order, other than an order passed by the State Government, terminating the State-aid may prefer an appeal to such authority and within such period as may be prescribed.

(Secs. 14—16)

(4) The appellate authority may, after hearing the parties concerned and after holding such enquiry as may be prescribed, pass such orders as it may deem fit.

Repayment
of loans.

14. (1) Every loan granted under this Chapter shall be made repayable by instalments within such period from the date of actual advance of the loan or, when the loan is advanced in instalments, from the date of payment of the last instalment, and shall bear interest at such rate and payable in such manner as may be fixed by the order granting the loan.

(2) The period fixed as aforesaid shall not exceed twenty years unless the State Government, by general or special order, otherwise directs.

Power of
State
Government
to recover
loan.

15. After an order under section 13 has been passed terminating the State-aid in respect of any industry, the State Government may, notwithstanding anything to the contrary contained in any other provision of this Act or in any other law for the time being in force, proceed to recover from the owner of the industry as an arrear of public demand—

(a) the whole amount of the loan outstanding together with such interest as may be due thereon ; or

(b) in case where the aid is given otherwise than by the grant of a loan, the money value of the grant or concession as fixed at the time the loan was made together with interest at such rate as may be prescribed, from the date of the grant or concession, as the case may be, till the date of realisation ; and

(c) the cost of recovery.

Subscription
for shares or
debentures or
guarantee of
minimum
return of
capital.

16. The conditions of taking of shares or debentures by the State Government or the guarantee of a minimum return on the whole or part of the capital of any industry shall be—

(a) that the industry shall be subject to the conditions laid down in section 10 in respect of inspection and returns ; and

(b) that for all shares and debentures taken by the State Government, there shall

(Secs. 17-18)

be taken by the other person shares or debentures of an amount which shall be at least fifty per centum of the amount paid by the State Government.

17. (1) Except in the case of co-operative societies and persons trained in particular trades at Government cost, no subsidy shall exceed the prescribed percentage of the cost involved in the purposes for which the subsidy has been granted. Subsidies

(2) The condition of grant of subsidy to industries, other than small-scale or cottage industries, for the conduct of research or the purchase of machinery or of any other payment under guarantee of minimum return on the paid-up capital or the grant, on favourable terms, of land, raw materials, firewood, water or other property of the State Government or of the supply of electrical energy at concessional rates from a source which is the property of the State Government, shall ordinarily be that such State-aid shall be discontinued if the industry be shown to the satisfaction of the State Government to be earning profit in excess of such rate as may be prescribed.

18. No recipient of State-aid shall pay any dividend or distribute or take any profits in excess of such percentage 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. The balance of the profits after necessary amounts have been set aside for depreciation or obsolescence of plant, machinery and buildings and for the payment of interest on debentures or loans, shall be carried to a reserve fund to be utilised in such manner as the State Government may approve : Disposal of profits when conditions of State-aid not 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 loan or raw materials, fuel, water or any other property or right of the State Government or the grant, free of charge or on favorable terms, of services of experts or person in the service of the State Government or by the payment of a subsidy for the conduct of research.

(Secs. 19-20)

Government
control of
aided indus-
tries.

19. Notwithstanding anything contained in any other provision of this Chapter, if in any case the amount or value of the State-aid given thereunder amounts to or exceeds two lakhs of rupees, or the face value of the shares held by the State Government exceeds twenty-five per cent of the value of the authorised share capital, the State Government, shall, and in any other case may, by appointment of Government directors otherwise, take power to ensure such control over the industries as shall be sufficient in its opinion to safe-guard its interest.

Recovery of
money due
under this
Chapter

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

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

(3) Where any industrial concern under liability to the State Government makes any default in the matter of repayment of any loan or advance or any instalment thereof or otherwise fails to comply with the terms of the agreement, the Director, with a view to safeguarding the interest of the Government and security of the Government dues and after giving reasonable notice to the parties in default, shall, subject to the control of the State Government, have the right to take possession of the assets or to take over the management of the industrial concern as well as the right to transfer by way of lease or sale the property pledged, mortgaged, hypothecated or assigned to the State Government and to realise the dues of the State Government:

Provided that where the management of an industrial concern is taken over by the Director, he shall be deemed to be the owner of the concern for the purposes of suits by or against the concern and shall sue and be sued in the name of the concern.

(4) Any transfer of property made by the Director in exercise of his powers under sub-section (3) shall

(Secs. 21—24)

vest in the transferee all rights in or to the property transferred as if the transfer had been made by the owner of the property.

21. (1) The State Government may charge in respect of applications, enquiries, inspections and audit by whomsoever made under the provisions of this Act, such fee as may be prescribed. Levy of fees

(2) The State Government may charge such fee as may be prescribed for any guarantee given by it under the provisions of this Act.

CHAPTER IV

Supply of machinery on the hire-purchase system

22. No machinery shall be supplied on hire-purchase system unless the applicant for the State-aid deposits with the Director such percentage (not being below ten per cent) of the cost thereof as may be prescribed. Percentage of cost to be deposited by hirer.

23. When an application for such State-aid is allowed the Director shall, subject to and in accordance with any rules that may be made under this Act, make an order specifying the following particulars, namely:— Particulars to be specified in the order when application is allowed.

(a) the amount of each instalment of rent to be paid for the hire of the machinery and the number of such instalments to be paid before the machinery shall become the property of the hirer;

(b) the amount of interest, if any, to be paid along with each instalment of rent on the remaining unpaid instalment;

(c) the dates on which and the manner in which the aforesaid payment shall be made; and

(d) such other particulars as may be prescribed.

24. Until the hiring is terminated in the manner hereinafter provided, the following provisions shall apply, namely:— Conditions of supply of machinery on hire purchase system.

(a) the hirer shall pay punctually without demand, the instalments of rent and amount of interest specified in the order referred to in section 23;

(Sec. 25)

- (b) the hirer shall retain the machinery in his own possession in good and serviceable condition and shall not without the previous written consent of the Director make any addition thereto or alteration therein, nor shall remove the machinery from the premises specified in the application for the supply thereof;
- (c) the machinery shall remain the sole and absolute property of the State Government and any transfer thereof or assignment of any right, title or interest therein or the creation of any mortgage, encumbrance or any other charge thereon by the hirer shall be void as against the State Government unless it has been made with the previous written consent of the Director;
- (d) The machinery shall not be liable to distraint, attachment or sale by any process under any law for the time being in force;
- (e) the machinery shall bear a metal plate in the prescribed form and any person who wilfully removes or defaces such plate shall be liable to a fine not exceeding five hundred rupees and it shall be presumed until the contrary is proved that the machinery bearing such metal plate is the property of the State Government hired out under this Chapter;
- (f) the hirer shall permit the Director or any person acting under his authority in this behalf to inspect the machinery at all reasonable times, and the Director or such other person shall have all such powers of entry as may be necessary for the purpose of making an inspection; and
- (g) the hirer shall be bound by such other conditions as may be prescribed or as may be imposed by the Director in any particular case.

Consequences of default by the hirer.

25. If the hirer makes default in payment of the rent of the machinery, the interest or any other charges payable by him under this Chapter, or fails to comply with any of the conditions specified in or imposed on him under section 24, the Director may, after considering the explanation, if any, offered by

(Secs. 26—29)

the hirer, terminate the hiring, and may himself enter or authorise any other officer in this behalf, to enter upon the premises, in which the machinery, for the time being, is kept and seize and take away the same, whether such premises belong to the hirer or not.

26. If the machinery is seized and taken away under section 25, the hirer shall have the option to be exercised within one month after such seizure or such longer period as may be allowed by the Director, of purchasing the same on payment to the Director of the unpaid balance of the cost thereof, such proportion of the interest on the said costs as may be prescribed and the expenses incidental to such seizure and removal.

Option of hirer to purchase machinery seized in default.

27. The hirer may at any time terminate the hiring by returning the machinery to the State Government in the manner prescribed.

Termination of hiring by hirer.

28. If the Director terminates the hiring under section 25 and the hirer does not purchase the machinery under section 26 or if the hirer returns the machinery to the State Government under section 27, the hirer shall not be entitled to the refund of the percentage of cost deposited by him under section 22, or unless the State Government otherwise directs, to the refund or remission of any payment made by or any amount due from during the hiring and he shall be liable to pay such amount as determined by the Director in respect of any loss or damage, other than by reasonable wear and tear, that may have been caused to the machinery during the hiring.

Liability of hirer on termination of hiring under sections 24 and 26.

29. When the hirer, after deposit of the percentage of cost with the Director under section 22, has paid in full, all the instalments of rent, mentioned in clause (a) of section 23 together with the interest, cost and other charges payable by him under this Chapter, he shall become the owner of the machinery and shall thereupon remove the metal plate mentioned in clause (e) of section 24:

Termination of hiring on payment of cost of machinery.

Provided that if at any time during the hiring the hirer pays in advance the remaining instalments of rent, the interest payable in respect thereof shall be remitted.

(Secs. 30—33)

Penalties

30. (1) If the hirer wilfully omits after receiving due notice to remove the metal plate from any machinery which has become his property under section 29 and to return the same to the Director, he shall be liable to pay a penalty which may extend to fifty rupees.

(2) If the hirer causes any interference in the action of the Director or any other officer authorised by him in this behalf in entering upon the premises in which the machinery for the time being is kept, or in seizing or taking back such machinery, whether the premises belong to the hirer or not, as provided in section 25, the hirer shall be liable to pay a penalty which may extend to one hundred rupees.

Recovery of sums due under this Chapter.

31. All sums payable under this Chapter shall be recoverable as if they are arrears of public demand.

CHAPTER V

Miscellaneous

Supersession of Board.

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

(2) During the period intervening between the date of an order under sub-section (1) and the reconstitution of the Board, the powers and duties of the Board shall be exercised and performed by such person and in such manner, as the State Government may direct.

Removal of member.

33. If the State Government is satisfied that any member of the Board elected under clause (b) of sub-section (1) of section 3 or appointed under clause (d) of that sub-section has—

- (a) failed to attend three consecutive meetings of the Board without sufficient cause ;
- (b) taken part at a meeting of the Board in violation of the provisions of this Act or the rules made thereunder ; or

(Sec. 34)

(c) conducted himself in a manner causing hindrance to the smooth functioning of the Board,

if may, after considering the explanation, if any, offered by the member, by an order in writing, specifying the reasons for so doing, remove the member from office.

34. No State-aid shall be given to any industry, except Agriculture save in accordance with the provisions of this Act :

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

Provided that nothing in this Act shall apply—

(1) to any State-aid given in the form of the grant of a loan to any industrial concern as defined in the State Financial Corporations Act, 1951, through the agency of the State Financial Corporation in pursuance of clause (ee) of sub-section (1) of section 25 of that Act ; or

63 of 1951

(2) to any State-aid given to sick industry ; or

(3) to any State-aid in the form of a guarantee given to any industry which is a public undertaking ; or

(4) to the power of the State Government to—

(a) start or conduct an industry for experimental purposes or with a view to stimulating industrial development ;

(b) assist an industry by agreement to purchase on business terms the whole or a portion of the products of the same ;

(c) assist an industry by giving free of charge or on favourable terms, the services of Government officials or experts either in the capacity of advisers or for a limited period not exceeding one year for starting or conducting such industry ;

(d) assist an industry in connection with industrial education or the training of apprentices ;

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

1 of 1894

(Secs. 35—36)

- (f) assist a company formed for the purpose of supplying electricity, gas, water or any other service which in the opinion of the State Government is likely to prove useful to the public ; or
- (g) assist a village industry in any manner which may be determined by the State Government.

Explanation—For the purposes of this section—

- (i) “sick industry” shall mean an industry which continuously fails to generate internal surplus and depends for its running on financial aid from outside ;
- (ii) an industry shall be deemed to be a public undertaking if it is owned by—
 - (a) a Government company within the meaning of the Companies Act, 1956 ; 1 of 1956
 - (b) any corporation established by law which is owned, controlled or managed by any Government ;
 - (c) a Grama Panchayat constituted under the Orissa Grama Panchayat Act, 1964 ; Orissa Act 1 of 1965,
or
 - (d) A Panchayat Samiti constituted under the Orissa Panchayat Samiti Act, 1959. Orissa Act 7 of 1960

Remission of interest.

35. If the owner of an industry or any other person to whom State-aid has been given in any of the forms mentioned in section 4, pays the money recoverable from him under Chapter III, or as the case may be, the instalments of rent payable by him under the provisions of Chapter IV in accordance with the terms and conditions laid down in this Act and the rules made thereunder, he shall be entitled to a remission on the rate of interest by two per cent.

Exemption of certain classes of persons.

36. Nothing in clauses (c), (d) and (e) of section 24, or in any other section which the State Government may, by notification in the official gazettee, specify, shall apply to the grant of a loan or the supply of machinery on the hire-purchase system involving the advance or expenditure of an amount not exceeding five hundred rupees to a person

(Secs. 37-38)

belonging to the Scheduled Castes or Scheduled Tribes or to a person whose annual income at the time of the application for State-aid did not exceed one thousand rupees, for the growth and development of small-scale industry or cottage industry.

Explanation I—“Scheduled Castes” shall have reference to the Scheduled Castes specified in respect of the State of Orissa in the Constitution (Scheduled Castes) Order, 1950.

Explanation II—“Scheduled Tribes” shall have reference to the Scheduled Tribes specified in respect of the State of Orissa in the Constitution (Scheduled Tribes) Order, 1950.

37. (1) The decision of the State Government as to whether the conditions laid down in or under any of 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 such decision or any order made under this Act.

Finality of decision of State Government and bar of suits and proceedings in Civil and Criminal Court.

(2) No prosecution, suit or other proceeding shall lie against any Government Officer or other authority vested with powers under this Act for anything in good faith done or intended to be done thereunder.

38. (1) The State Government may, after previous publication make rules for carrying out all or any of the purposes of this Act.

Power to make rules.

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

- (a) the manner of election of the members of the Board and the conduct of business of the Board including the manner in which notice of the meetings shall be given, the quorum at a meeting and the recording of proceedings ;
- (b) the delegation of power to give State-Aid as provided in section 5 ;
- (c) the manner of making applications for State-aid under sub-section (1) ; and all matters relating to the publication of such application and the submission and

(Sec. 38—contd.)

- disposal of objections under sub-sections (2) and (3) of section 7 ;
- (d) the manner of ascertaining the net value of the security offered and the percentage of such value which may be granted as a loan under section 8 ;
- (e) the nature of the security to be taken and the conditions under which State-aid may be given under sections 8 and 9 ;
- (f) the manner in which inspection of the premises, buildings, machinery and stock in-hand of the industry is to be made, the mode of keeping and auditing the accounts and the furnishing of returns of any industry in receipt of State-aid under section 10 ;
- (g) the guaranteeing by the State Government of cash credits, overdrafts, fixed advances with the Banks and debentures issued to the public, under section 12 and the recognition of Banks for this purpose ;
- (h) the authorities to whom and the conditions or restrictions subject to which the State Government may delegate its powers under sub-section (1) of section 13 to terminate the State-aid and the period within which appeal may be preferred to the State Government under sub-section (3) of the said section ;
- (i) the conditions and dates of repayment of subsidies and grants and the rate of profits under section 17 ;
- (j) the application under section 18 of profits in the cases in which the conditions on which State-aid has been given have not been fulfilled ;
- (k) the appointment and functions of Government directors under section 19 and the methods of control of industries to which State-aid has been given ;
- (l) the fees that may be charged under section 21 ;
- (m) the percentage of the cost of machinery to be deposited under section 22 ;

(Sec. 39)

- (n) the additional particulars to be specified in the order referred to in section 23 and the conditions subject to which machinery may be supplied on the hire-purchase system ;
- (o) the form of the metal plate referred to in clause (e) of section 24 and the conditions that may be imposed by the Director on any particular hirer referred to in clause (g) of the said section ;
- (p) the proportion of the interest on the cost of the machinery payable under section 26 and the extent to which and the manner in which interest may be remitted under section 35 ;
- (q) the recovery of any sum payable under this Act ; and
- (r) any other matter which is required to be or may be prescribed under this Act.

(3) Until rules are made under this Act, the rules made under the Bihar and Orissa State-aid to Industries Act, 1923 shall be in force in so far as they are consistent with the provisions of this Act.

Bihar and Orissa Act 6 of 1923.

Bihar and Orissa Act 6 of 1923.

39. (1) The Bihar and Orissa State-aid to Industries Act, 1923 is hereby repealed. Repeal and Savings.

(2) Notwithstanding such repeal, anything done, any action taken, any State-aid granted, any appointment or delegation made, notification, order, instruction or direction issued or rule, regulation, form, bye-law or scheme framed under the Act so repealed, shall be deemed to have been done, taken, granted, made, issued or framed under the corresponding provisions of this Act.