

**COAL MINES (TAKING OVER OF MANAGEMENT) ACT, 1973**

**15 of 1973**

**[31st March, 1973]**

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**SCHEDULE 1 :- THE SCHEDULE**

**COAL MINES (TAKING OVER OF MANAGEMENT) ACT, 1973**

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STATEMENT OF OBJECTS AND REASONS Coal is the most important indigenous source of commercial energy in India. It is available in adequate quantities in India, though much of it is poor in quality and the reserves are unevenly distributed among different regions of the country. With the recent nationalisation of 214 coking coal mines in Bengal-Bihar region, the development of metallurgical coal has been brought under the control of the Government except in case of captive coal mines of the private steel plants. The non-coking coal mines, however, still predominantly continue to remain in the hands of the private sector, the public sector undertakings namely National Coal Development Corporation, Bharat Coking Coal and Singareni Collieries Company contributing only 1/3rd of the total national production. Most of the production of non-coking coal in private sector comes from Bengal-Bihar region where the collieries are concentrated. These collieries are small in size, financially weak and are worked on unscientific lines, the colliery owner's sole object being to earn quick profits without any regard to the conservation and safety of mines or to meet their obligations to the workers. This has resulted in the stagnation of production in many collieries and closure of many others. It is envisaged that in order to meet, by 1978-79, anticipated demand of coal, large scale efforts would be necessary to raise the production to which the private sector alone is expected to contribute an additional quantity of 19 million tonnes, requiring an investment of Rs. 100 crores during the next 6 years. It is felt that in the existing circumstances the private sector will not be able to fulfil these obligations. It is, therefore, proposed to nationalise the non-coking coal mines as early as possible. Since such nationalisation will take some time, the management of the non-coking coal mines pending nationalisation thereof, was taken over by the Central Government under the Coal Mines (Taking over of Management) Ordinance, 1973. The Bill seeks to replace the said Ordinance. -Gaz.of.Ind.,2-3-73, Pt.II.S.2,Ext.,p.95.

CHAPTER 1  
PRELIMINARY

**1. Short title and commencement :-**

(1) This Act may be called, The Coal Mines (Taking Over of Management) Act, 1973.

(2) It shall be deemed to have come into force on the 30th day of January, 1973, except sub-section(2) of section 8 which shall come into force at once.

## **2. Definitions :-**

In this Act, unless the context otherwise requires.

(a) "appointed day" means (the 31st day of January, 1973).

(b) "coal mine" means a mine in which there exists one or more seams of coal:

(c) "company" means a company as defined in Section 3 of the Companies Act, 1956 , and includes a foreign company within the meaning of section 591 of that Act;

(d) "Custodian", in relation to a coal mine means the person appointed under section 6 to take over, or carry on, the management of the coal mine:

(e) "Government company "has the meaning assigned to it by Section 617 of the Companies Act, 1956 :

(f) "managing contractor" means any person, or body of persons, who, with the previous consent in writing of the State Government, has entered into an arrangement, contract or understanding, with the owner of the coal mine under which the operations of the mine are substantially controlled by such person or body of persons:

(g) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes-

(i) all borings and bore holes:

(ii) all shafts, whether in the course of being sunk or not:

(iii) all levels and inclined planes in the course of being driven:

(iv) all open cast workings:

(v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom:

(vi) all lands, buildings, works, adits, levels, planes, machinery and equipments, instruments, stores, vehicles, railways, tramways and sidings in, or adjacent to, a mine and used for the purposes of the

mine:

(vii) all workshops (including buildings, machinery, instruments, stores, equipments of such workshops and the lands on which such workshops stand) in or adjacent to a mine and used substantially for the purposes of the mine or a number of mines under the same management:

(viii) all coal in stock or in transit belonging to the owner of the mine and all coal under production in a mine;

(ix) all power stations in a mine or operated primarily for supplying electricity for the purpose of working the mine or a number of mines under the same management;

(x) all lands, buildings and equipments, belonging to the owner of the mine, and in, adjacent to or situated on the surface of, the mine where the washing of coal obtained from the mine or manufacture, therefrom, of coke is carried on;

(xi) all lands and buildings [other than those referred to in sub-clause (x)] wherever situated and solely used for the location of the management, sale or liaison offices, or for the residence of officers and staff, of the mine:

(xii) all other assets, movable and immovable, belonging to the owner of a mine, wherever situated, including cash balances, reserve funds and investments in so far as they relate to the mine and also any money lawfully due to him in relation to the mine in respect of any period prior to the appointed day:

(h) "mining company" means a company owning a coal mine, and in relation to a foreign company within the meaning of Section 591 of the Companies Act, 1956, the undertaking of that company in India.

(i) "notified order" means an order notified in the Official Gazette:

(j) words and expressions used herein and not defined but defined in Coal Mines (Conservation, Safety and Development) Act, 1952, have the meanings, respectively, assigned to them in that Act;

(k) words and expressions used herein and not defined in this Act or in Coal Mines (Conservation, Safety and Development) Act, 1952, have the meanings, respectively, assigned to them in Mines Act, 1952

**3. Management of coal mines to vest in the Central Government on the appointed day :-**

(1) On and from the appointed day, the management of all coal mines shall vest in the Central Government.

(2) Without prejudice to the generality of the provisions of sub-section (1), the coal mines specified in the Schedule shall be deemed, for the purposes of this Act, to be the coal mines the management of which shall vest, under sub-section (1), in the Central Government:

Provided that if, after the appointed day, the existence of any other coal mine comes to the knowledge of the Central Government, whether after an investigation or in pursuance of an intimation given to it under sub-section (5), or otherwise, the Central Government shall, by a notified order, make a declaration about the existence of such mine, and on and from the date of such declaration -

(i) the management of such coal mine shall be deemed, for the purposes of this Act, to vest in the Central Government; and

(ii) such coal mine shall be deemed to be included in the Schedule, and thereupon the provisions of this Act shall become applicable thereto subject to the modification that for the words "appointed day", wherever they occur, the words, brackets and figures "date of the declaration made by the Central Government under sub-section (2) of section 3 " shall be substituted.

(3) If any error or omission is notified in the Schedule in relation to the name or address of the owner of a coal mine, the owner of such mine shall, within thirty days from the date on which this Act receives the assent of the President bring such error or omission to the notice of the Central Government.

(4) If, after the appointed day, the Central Government is satisfied, whether from any information received by it or otherwise, that there has been any error, omission or misdescription in relation to the particulars of a coal mine included, or deemed to be included, in the Schedule or the name and address of the owner of any such coal mine, it may, by notified order, correct such error, omission or misdescription, and on the issue of such notified order the relevant

entries in the Schedule shall stand corrected accordingly:

Provided that no such correction in relation to ownership of a coal mine shall be made where such ownership is in dispute.

(5) Every person in charge, immediately before the date on which this Act receives the assent of the President, of the management of any coal mine, being a coal mine not included or deemed to be included on the said date in the Schedule, shall within thirty days from the said date, intimate to the Central Government the name and location of such mine and the name and address of the owner thereof.

(6) Where there is a dispute with regard to the declaration made by the Coal Board under Coking Coal Mines (Emergency Provisions) Act, 1971, to the effect that a coal mine contains coking coal, the management of such coal mine shall, notwithstanding anything contained in the said Act, vest in the Central Government under this Act and nothing contained in the first-mentioned Act shall apply, or be deemed ever to have applied, to the said coal mine.

#### **4. Contract regarding management of coal mines to be deemed to have terminated on the appointed day :-**

Any contract, whether express or implied, providing for the management of any coal mine, made before the appointed day between the owner of such mine and any person in charge of the management of such mine immediately before the appointed day shall be deemed to have terminated on the appointed day.

#### **5. Management of coal mines pending the appointment of Custodian :-**

(1) Pending the appointment of a Custodian under section 6 for any coal mine, the person in charge of the management of such mine immediately before the appointed day shall, on and from the appointed day, be in charge of the management of such mine for and on behalf of the Central Government; and the management of such mine shall be carried on by such person subject to the provisions contained in sub-sections (2) and (4) and such directions, if any, as the Central Government may give to him and no other person, including the owner, shall, so long as such management continues, exercise any powers of management in relation to the coal mine or give any direction with regard to such management.

(2) No person in charge of the management of a coal mine shall, without the previous approval of the person specified by the Central Government in this behalf in respect of that mine (hereinafter referred to as the "authorised person"),--

(a) incur any expenditure from the assets pertaining to the coal mine otherwise than for the purpose of making routine payments of salaries or commissions to employees, agents or for the purpose of meeting the routine day-to-day expenditure;

(b) transfer or otherwise dispose of any such assets or create any charge, hypothecation, lien or other incumbrance thereon;

(c) invest in any manner any monies forming part of such assets;

(d) acquire any immovable property out of monies forming part of such assets:

(e) enter into any contract of service or agency, whether expressly or by implication, for purposes connected wholly or partly with the coal mine or vary the terms and conditions of any such contract subsisting on the appointed day;

(f) enter into any other transaction relating to the business of the coal mine or vary the terms of any agreement relating to such business subsisting at the commencement of this Act,

(3) The approval of the authorised person may be given either generally in relation to certain classes of transactions relating to the coal mine or specially in relation to any of its transactions.

(4) Every person in charge of the management of a coal mine shall deposit all securities and documents of title to any assets pertaining to such mine in any Scheduled Bank or Nationalised Bank in which the owner or agent had an account immediately before the appointed day or in any branch of the State Bank in the place where the head office or the principal office of the coal mine is situated or where there is no branch of the State Bank in such place, the nearest branch of the State Bank: and no such security or document shall be withdrawn from the Scheduled Bank, the Nationalised Bank or the State Bank, as the case may be, except with the permission of the authorised person: Provided that nothing contained in this sub-section shall apply to any security or document of title kept in trust with an Official Trustee in pursuance of the articles of association of any mining company unless the

Central Government by notified order, otherwise directs.

(5) Every person in charge of the management of a coal mine shall deliver forthwith to the person specified in this behalf by the Central Government in respect of that coal mine, the following documents, namely:

(a) the minutes book or any other book in India containing all resolutions, up to the appointed day, of the persons in charge of the management of the coal mine before the appointed day;

(b) the cheque books relating to the coal mine which are at any office of the coal mine;

(c) all registers or other books containing particulars relating to the investment of any monies pertaining to the coal mine including investments on mortgaged properties and all loans granted or advances made.

(6) Without prejudice to the generality of the powers conferred by sub-section (1) and the provisions contained in sub-section (2), (4) and (5), any directions issued under sub-section (1) may require the persons in charge of the management of a coal mine under this Act to furnish to the Central Government or to the authorised person such returns, statements and other information relating to the coal mine as may be mentioned in the direction.

(7) The persons in charge of the management of the coal mine under this Act shall be entitled to such remuneration, whether by way of allowance or salary or perquisites as the Central Government may fix: and any such person may, by giving one month's notice in writing to the Central Government of his intention so to do, relinquish charge of the management of the coal mine.

## **6. Power of Central Government to appoint Custodian :-**

(1) The Central Government may, as soon as it is convenient administratively so to do, appoint any person (including a Government company, whether in existence at the commencement of this Act or incorporated thereafter) as the Custodian for the purpose of taking over the management of one or more coal mines and the person so appointed shall carry on the management of such mines for and on behalf of the Central Government.

(2)

(a) The Central Government may also appoint a person (including a Government company, whether in existence at the commencement of this Act or incorporated thereafter) as the Custodian General for exercising supervision and control over all the coal mines the management of which is taken over under this Act and on such appointment, every Custodian, appointed under sub-section (1), shall act under the guidance, control and supervision of the Custodian-General.

(b) The Central Government may also appoint one or more persons as Additional Custodian-General or Deputy Custodian General for assisting the Custodian-General in the exercise of his powers and duties under this Act and the Custodian-General may delegate all or such of his powers, as he may think fit, to the Additional Custodian-General or Deputy Custodian-General.

(c) Every Additional Custodian-General or Deputy Custodian-General shall exercise the powers delegated to him under the control and supervision of the Custodian-General :

(3) On the appointment of a Custodian under sub-section (1), the charge of management of the coal mine shall vest in him and all persons in charge of the management of such mine immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Custodian all assets, books of account, registers or other documents in their custody relating to the coal mine.

(4) Notwithstanding any judgment, decree or order of any Court or anything contained in any other law for the time being in force, the Official Liquidator or any Receiver appointed by any court or any other person who has, on the appointed day, in his possession, custody or control any coal mine specified in the Schedule or any part thereof, shall forthwith deliver possession of the mine or such part thereof, as the case may be, to the Custodian.

(5) The Official Liquidator, Receiver or any other person who has, on the appointed day, in his possession, custody or control any books, documents or other papers relating to any coal mine specified in the Schedule shall be liable to account for the said books, documents or other papers to the Central Government and shall deliver them up to the Custodian or to such person as the Custodian may specify in this behalf.

(6) The Central Government may authorise the Custodian to

exercise such of the powers of the owner, including powers to borrow, as may be necessary for the proper management of the coal mine and the Central Government may also issue such directions to the Custodian as to his powers and duties as it may deem desirable in the circumstances of the case; and no other person, including the owner, shall, so long as such management continues, exercise any powers of management in relation to the coal mine or give any direction with regard to such management.

(7) The custodian may also apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the coal mine or in relation to any other matter arising in the course of such management.

(8) The Custodian shall receive from the funds of the coal mine for the charge of management of which he is appointed under sub-section (1), such remuneration as the Central Government may fix: Provided that where a Government company has been appointed as the Custodian of more than one coal mine, the remuneration of the Custodian shall be received from the funds of each such coal mine in such proportion as may be determined by the Central Government.

(9) The Custodian-General and every-

(i) Additional Custodian-General,

(ii) Deputy Custodian-General,

(iii) Custodian.

(10) The Central Government shall receive, to the exclusion of all other persons, any monies due to the coal mine realised after the appointed day notwithstanding that such receipt pertains to a transaction made at any time before the appointed day.

## **7. Payment of amount :-**

(1) Every owner of a coal mine shall be given by the Central Government an amount, in cash, for the vesting in it, under section 3 , of the management of such mine.

(2) For every month during which the management of a coal mine remains vested in the Central Government, the amount referred to in sub-section (1) shall be computed at the rate of twenty paise per tonne of coal on the highest monthly production of coal from such

mine during any month in the years 1969, 1970, 1971 and 1972: Provided that if in relation to any such coal mine, there was no production of coal during the said years, the amount referred to in sub-section (1) shall be computed at the rate of four paise per tonne of such highest monthly coal producing capacity of the coal mine, before the appointed day as may be assessed and declared by the Coal Board : Provided further that in relation to a coal mine, the operations of which were immediately before the appointed day under the control of a managing contractor, the amount, as computed under this sub-section, shall be apportioned between the owner of the coal mine and such management contractor in such proportions as may be agreed upon, by or between the owner and such contractor, and in the event of there being no such agreement, in such proportions as may be determined by the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction the head office of the coal mine is situated.

(3) For every month during which the management of a coke oven plant, which falls within the definition of coal mine, remains vested in the Central Government under this Act, there shall be given by the Central Government, in cash, in addition to the amount referred to in sub-section (1), to the owner of such coke oven plant, an amount computed at the rate of fifty paise per tonne of coke on the highest monthly production of coke from such coke oven plant during any month in the years 1969, 1970, 1971 and 1982.

(4) Out of the amount payable under the foregoing sub-sections, there shall be deducted by the Central Government, all sums equal to the amount of arrears due, on the appointed day, to the persons employed by the owner of a coal mine-

(a) in relation to a provident fund, pension fund, gratuity fund or any other fund established for the welfare of the persons employed by the owner of the coal mine, and

(b) as wages.

(5) All sums deducted under sub-section (4) shall, in accordance with such rules as may be made under this Act, be credited by the Central Government to the relevant fund or paid by that Government to the persons to whom the said sums are due, and on such credit or payment, the liability of the owner in respect of the amount of arrears due as aforesaid shall, to the extent of such credit or payment stand discharged.

**8. Penalties :-**

(1) If any person-

(a) fails to deliver to the Custodian any assets, books of account, registers or any other document in his custody relating to the coal mine in respect of the management of which the Custodian has been appointed, or

(b) retains any property of such coal mine or removes or destroys it, or

(c) fails to comply with the provisions contained in sub-section (2) or sub-section (4) or sub-section (5) of section 5 , or

(d) fails to comply with any directions given under sub-section (1), read with sub-section (6), of section 5 ,

(2) If any person fails without any reasonable excuse, to comply with the provisions of sub-section (5) of section 3 , he shall be punishable with imprisonment for a term which may extend to three years and also with fine.

**9. Offences by companies :-**

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding any thing contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:

## **10. Mining companies not to be wound up by Court :-**

(1) No proceeding for the winding up of a mining company, the management of whose coal mines has vested in the Central Government under this Act, or for the appointment of a Receiver or for any other order in respect of the business of such company, shall lie in any Court except with the consent of the Central Government.

(2) Notwithstanding anything contained in Companies Act, 1956 , or in any memorandum or articles of association of any mining company or in any instrument, no resolution passed at any meeting of the Board of Directors or of the members of a mining company shall, in so far as relates to the coal mine owned by such company or any business of such mine, be given effect to unless approved by the Central Government.

(3) Subject to the other provisions contained in this Act and subject to such exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette specify in its behalf, Companies Act, 1956 , shall continue to apply to every mining company in the same manner as they applied to it before the appointed day.

## **11. Exclusion of period of operation of Act in computing period of limitation :-**

In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the owner of any coal mine in respect of any matter arising out of any transaction in relation to the coal mine owned by him, the time during which this Act is in force shall be excluded.

## **12. Effect of Act on other laws :-**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act, or in any decree or order of any court, tribunal or other authority.

## **13. Delegation of powers :-**

(1) The Central Government may, by notification order, direct that all or any of the powers exercisable by it under this Act may also be exercised by any person or persons as may be specified in the order.

(2) Whenever any delegation of power is made under sub-section (1) the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

**14. Protection of action taken in good faith :-**

(1) No suit, prosecution or other legal proceeding shall lie against the Custodian-General, Additional Custodian-General, Deputy Custodian-General, any Custodian or authorised person for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the Custodian-General, Additional Custodian-General, Deputy Custodian-General, any Custodian or authorised person for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

**15. Contracts, etc., in bad faith or detrimental may be cancelled or varied :-**

(1) Every person with whom the owner or occupier of any coal mine has, before the appointed day, entered into any contract for any service (other than a contract of employment), sale or supply shall, within fifteen days from the date on which this Act receives the assent of the President, intimate to the Central Government the particulars of such contract and if any default is made in giving such intimation, such contract shall, on the expiry of the said period of fifteen days, be voidable at the option of the Central Government.

(2) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement between the owner, agent or manager of a coal mine and any other person, in so far as such contract or agreement relates to the coal mine, has been entered into in bad faith, or is detrimental to the interests of the coal mine, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly: Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(3) Any person aggrieved by an order made under sub-section (2) may make an application to the principal Court of civil jurisdiction within the local limits of whose jurisdiction the head office of the coal mine is situated for the variation or reversal of such order and thereupon such Court may, confirm, modify or reverse such order.

**16. Power to terminate contract of employment :-**

If the Custodian is of opinion that any contract of employment entered into by any owner or agent of a coal mine, at any time before the appointed day, is unduly onerous or if he considers that it is necessary so to do in the interests of the proper management of a coal mine, he may, by giving to the employee concerned one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

**17. Power to make rules :-**

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

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

(a) the manner in which the coal mines shall be managed by the Custodian;

(b) the constitution of a Board of management, by whatever name called, for advising the Custodian-General in the management of the coal mines;

(c) the form and manner in which accounts of the coal mines shall be maintained,

(d) any other matter in relation to which such rule is required to be, or may be, made.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no

effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**18. Coal mines to which this Act shall not apply :-**

(1) Nothing contained in this Act shall apply to any coal mine-

(a) owned, managed or controlled by Government, or by a Government company or by a corporation which is owned, managed or controlled by Government;

(b) owned or managed by a company engaged in the production of iron and steel :

(2) Sub-section (1) shall not apply where there is any dispute as to the ownership or right of user of Government, Government company or corporation referred to in clause (a) of that sub-section, or company referred to in clause (b) of that sub-section, with regard to any coal mine or any machinery, equipment, vehicle, railway or tramway which is in such coal mine or is used for the purposes of such coal mine.

**19. Power to remove difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notified order, not inconsistent with the provisions of this Act, remove the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

**20. Repeal and saving :-**

(1) The Coal Mines (Taking Over of Management) Ordinance, 1973, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any appointment, declaration or order made thereunder), shall be deemed to have been done or taken under the corresponding provisions of this Act.

**SCHEDULE 1**

**THE SCHEDULE**