

## **Coking Coal Mines (Emergency Provisions) Act, 1971**

**64 of 1971**

**[23 December 1971]**

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# **Coking Coal Mines (Emergency Provisions) Act, 1971**

**64 of 1971**

**[23 December 1971]**

An Act to provide for the taking over, in the public interest, of the management of coking coal mines and coke oven plants, pending nationalisation of such mines and plants.

## **CHAPTER 1 PRELIMINARY**

### **1. Short Title And Commencement :-**

(1) This Act may be called the Coking Coal Mines (Emergency Provisions) Act, 1971 .

(2) It shall be deemed to have come into force on the 16th day of October, 1971 .

### **2. Definitions :-**

In this Act, unless the context otherwise requires,--

(a) " appointed day" means the 17th day of October, 1971 ;

(b) " coke oven plant" means the plant and equipment with which the manufacture of hard coke has been, or is being, carried on and includes--

(i) all lands, buildings, works, machinery and equipment, vehicles, railways, tramways and sidings, adjacent to, and belonging to, or in, the coke oven plant,

(ii) all workshops belonging to the coke oven plant including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshops stand,

(iii) all hard coke in stock or in transit or under production, and other stores, stocks and instruments, belonging to the coke oven plant,

(iv) all power stations belonging to the coke oven plant or operated for supplying electricity for the purpose of working the coke oven plant,

(v) all lands, buildings and equipment adjacent to or belonging to, the coke oven plant where the washing of coal is carried on,

(vi) all other assets, movable or immovable, belonging to a coke oven plant, whether within its premises or outside, including cash balances, reserve funds and investments in so far as they relate to the coke oven plant and also any money lawfully due to the coke oven plant in relation to any period prior to the specified date;

(c) " coking coal mine" means a coal mine in which there exists one

or more seams of coking coal, whether exclusively or in addition to any seam of other coal;

(d) " company" means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956 ), and includes a foreign company within the meaning of section 591 of that Act;

(e) " Custodian" means the person appointed under section 5 to take over the management of the coking coal mine;

(f) " Government company" has the meaning assigned to it by section 617 of the Companies Act, 1956 (1 of 1956 );

(g) " managing contractor" means the 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 mine under which the operations of the mine are substantially controlled by such person or body of persons;

(h) " 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 adjacent to, and belonging to, or in, a mine, 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 working;

(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 equipment, vehicles, railways, tramways and sidings adjacent to, and belonging to, or in, a mine;

(vii) all workshops belonging to, or in, a mine including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshops stand;

(viii) all coal in stock or in transit or under production and other stores, stocks and instruments belonging to, or in, a mine;

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

(x) all lands, buildings and equipment adjacent to, or belonging to, or in, a mine where the washing of coal or manufacture of coke is carried on;

(xi) all other assets, movable or immovable, belonging to a mine, whether within its premises or outside, including cash balances, reserve funds and investments in so far as they relate to the coking

coal mine and also any money lawfully due to the coking coal mine in relation to any period prior to the appointed day;

(i) " mining company" means a company owning a coking coal mine, and in relation to a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956 ), the undertaking of that company in India;

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

(k) words and expressions used herein and not defined but defined in the Coal Mines (Conservation, Safety and Development) Act, 1952 (12 of 1952 ), have the meanings respectively assigned to them in that Act;

(l) words and expressions used herein and not defined in this Act or in the Coal Mines (Conservation, Safety and Development) Act, 1952 (12 of 1952 ), but defined in the Mines Act, 1952 (35 of 1952 ), have the meanings respectively assigned to them in the Mines Act, 1952 .

## **CHAPTER 2 MANAGEMENT OF COKING COAL MINES**

### **3. Management Of Coking Coal Mines To Vest In Central Government On The Appointed Day :-**

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

(2) The coking coal mines specified in the First Schedule shall be deemed, for the purposes of this Act, to be the coking coal mines the management of which shall vest, under sub- section (1), in the Central Government: Provided that if, after the appointed day, any other coal mine is found, after an investigation made by the Coal Board, to contain coking coal, that Board shall make a declaration to that effect and on and from the date of such declaration, such mine shall be deemed, for the purposes of this Act,--

(i) to vest in the Central Government; and

(ii) to be included in the First 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" the date of the declaration made by the Coal Board under sub- section (2) of section 3" shall be substituted.

### **4. Management Of Coking Coal Mines Pending The Appointment Of Custodian :-**

(1) Pending the appointment of a Custodian under section 5 for any

coking 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 (3) and (5) 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 coking coal mine.

(2) Any contract, whether express or implied, providing for the management of any coking 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.

(3) No person in charge of the management of a coking 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 appertaining to the coking 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 the 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 coking coal mine or vary the terms and conditions of any contract relating to any such transaction subsisting on the appointed day.

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

(5) Every person in charge of the management of a coking coal mine shall deposit all securities and documents of title to any assets appertaining 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 coking 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. Explanation.-- In this sub-section,--

(a) " Scheduled Bank" means a bank included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934 );

(b) " State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955 );

(c) " Nationalised Bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1976 ).

(6) Every person in charge of the management of a coking coal mine shall deliver forthwith to the person specified in this behalf by the Central Government in respect of that coking 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 coking coal mine before the appointed day;

(b) the current cheque books relating to the coking coal mine which are at the head office or the principal office of the coking coal mine;

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

(7) Without prejudice to the generality of the powers conferred by sub-section (1) and the provisions contained in sub-sections (3), (5) and (6), any direction issued under sub-section (1) may require the persons in charge of the management of the coking 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 coking coal mine as may be mentioned in the direction.

(8) The persons in charge of the management of the coking 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 coking coal mine.

## **5. Power Of Central Government To Appoint Custodians To Take Over The Management Of Coking Coal Mines :-**

(1) The Central Government may, as soon as it is convenient administratively so to do, appoint any person as Custodian for the purpose of taking over the management of the coking coal mine and the person so appointed shall carry on the management of such mine for and on behalf of the Central Government.

(2) (a) The Central Government may also appoint a person as the Custodian- General for exercising supervision and control over all the coking 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 or Deputy Custodian- General.

(c) Every Additional 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 coking 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 coking coal mine and any contract, whether express or implied, providing for the management of any coking coal mine, made before the appointed day between the owner of such mine and such persons, shall be deemed to have terminated on the date on which the Custodian is appointed.

(4) Nothing contained in section 4 shall apply to any coking coal mine the management of which has been taken over by the Custodian, but the Central Government may issue such directions

to the Custodian as to his powers and duties as it deems desirable in the circumstances of the case, and the Custodian may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the coking coal mine or in relation to any matter arising in the course of such management.

(5) The Custodian shall receive from the funds of the coking coal mine for the charge of management of which he is appointed under sub- section (1) such remuneration as the Central Government may fix.

(6) The Custodian, the Custodian- General, Additional Custodian- General and Deputy Custodian- General shall hold office during the pleasure of the Central Government.

(7) The Central Government may, if it is of opinion that it is necessary so to do for the proper management of the coking coal mines, the management of which has vested in it under section 3, appoint a Government company, whether in existence at the commencement of this Act or incorporated after such commencement, as the Custodian of all the coking coal mines specified in the First Schedule, and all coke oven plants specified in the Second Schedule, and on such appointment, every person appointed as Custodian or the Custodian- General or Additional or Deputy Custodian- General under sub- section (1) or sub- section (2), as the case may be, shall vacate his office as such and deliver to the Government company, so appointed, all assets, books of account, registers or other documents in his custody relating to the coking coal mine or the coke oven plant, as the case may be.

(8) On the appointment of a Government company as Custodian, the provisions of sub- sections (3), (4) and (5) shall apply to it as they apply to a Custodian appointed under sub- section (1).

## **6. Payment Of Amount :-**

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

(2) For every month during which the management of the coking coal mines remains vested in the Central Government, the amount referred to in sub- section (1) shall be computed at the rate of twenty- five paise per tonne of coal on the highest monthly production of coal from such mine during any month in the years 1968 , 1969 , 1970 and 1971 : Provided that if in relation to any

such coking 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 five paise per tonne of such highest monthly coal producing capacity of the coking coal mine, before the appointed day, as may be assessed and declared by the Coal Board: Provided further that in relation to a coking 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 coking coal mine and such managing 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 coking coal mine is situated.

### **CHAPTER 3 MANAGEMENT OF COKE OVEN PLANTS**

#### **7. Management Of Coke Oven Plants To Vest In The Central Government On The Specified Date :-**

On and from such date as the Central Government may, by notified order, specify in this behalf (hereafter, in this Chapter, referred to as the " specified date"), the management of the coke oven plants specified in the Second Schedule shall vest in the Central Government.

#### **8. Payment Of Amount :-**

(1) Every owner of a coke oven plant specified in the Second Schedule and every owner of a coke oven plant which falls within the definition of coking mine, shall be given by the Central Government an amount, in cash, for vesting in it, under section 7 or section 3, as the case may be, the management of such coke oven plant.

(2) For every month during which the management of the coke oven plant remains vested in the Central Government, the amount referred to in sub- section (1) shall be computed at the rate of--

- (a) seventy- five paise per tonne of by- product coke; and
- (b) fifty- five paise per tonne of beehive coke, on the highest monthly production of coke from such coke oven plant during any month in the years 1968 , 1969 , 1970 and 1971 .

(3) For the avoidance of doubts, it is hereby declared that the owner of a coke oven plant, the management of which has vested in the Central Government under section 3, shall be given, in addition to the amount payable under section 6, such amount as is referred to in sub- section (1).

### **9. Provisions Of Sections 4 And 5 And Sections 10 To 20 To Apply To This Chapter :-**

The provisions of sections 4 and 5 and sections 10 to 20 (both inclusive) shall apply to a coke oven plant, the management of which has vested in the Central Government under section 7, as they apply to a coking coal mine, and references therein to a coking coal mine and the appointed day shall be construed, unless the oven plant and the specified date.

## **CHAPTER 4 MISCELLANEOUS**

### **10. Penalties :-**

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 coking coal mine in respect of the management of which the Custodian has been appointed, or

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

(c) fails to comply with the provisions contained in sub- section (3) or sub- section (5) or sub- section (6) of section 4; or

(d) fails to comply with any directions issued under sub- section (1) or sub- section (4) of section 5, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

### **11. 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 anything 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. Explanation.-- For the purposes of this section,--

(a) " company" means any body corporate and includes a firm or other association of individuals; and

(b) " director", in relation to a firm means a partner in the firm.

### **12. Mining Companies Not To Be Wound Up By Court :-**

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

### **13. Exclusion Of Period Of Operation Of The Act For Computing Period Of Limitation :-**

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

### **14. 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.

### **15. Delegation Of Powers :-**

(1) The Central Government may, by notified 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.

#### **16. 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 in respect of 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.

#### **17. Contracts, Etc., In Bad Faith May Be Cancelled Or Varied :-**

(1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into, at any time within twelve months immediately preceding the appointed day, between the owner or agent of a coking coal mine and any other person, has been entered into in bad faith and is detrimental to the interests of the coking coal mine, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) the 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.

(2) Any person aggrieved by an order made under sub- section (1) may make an application to the principal court of civil jurisdiction within the local limits of whose jurisdiction the head office of the coking coal mine is situated for the variation or reversal of such order and thereupon such court may, confirm, modify or reverse such order.

#### **18. 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 coking coal mine, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

### **19. 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 coking coal mines will be managed by the Custodians, under the control and supervision of the Custodian-General;

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

(c) the form and manner in which accounts of the coking 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 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 1[ in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid.]

1. Subs. by Act 4 of 1986 s. 2 and sch. (w. e. f. 15- 5- 1986 ).

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.

### **20. Coking Coal Mines To Which The Act Shall Not Apply :-**

Nothing in this Act shall apply to any coking coal mine--

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

(b) owned or managed by a company engaged in the production of iron or steel: Provided that this section shall not extend to such mine or part thereof which, in the opinion of the Central Government, is in excess of the requirement for the production of iron and steel by that company.

**21. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by 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 commencement of this Act.

**22. Repeal And Savings :-**

(1) The Coking Coal Mines (Emergency Provisions) Ordinance, 1971 (12 of 1971 ), is hereby repealed.

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