

HOUSE OF THE PEOPLE

**THE INDUSTRIES
(DEVELOPMENT AND
CONTROL) BILL, 1949**

(REPORT OF THE SELECT COMMITTEE)



**PARLIAMENT SECRETARIAT
NEW DELHI**

FEB, 1950

**List of Reports of Select Committees presented
to Parliament in 1950.**

No.	Short title of the Bill.	Date of presen- tation.	Date of publicat- ion.
1.	The Industrial Disputes (Appellate Tribunal) Bill, 1949.	10.2.50	25.2.50
2.	The Mines Bill, 1949.	10.2.50	25.2.50
3.	The Industries(Development and Control) Bill, 1949.	10.2.50	25.2.50
4.	The Banking Companies (Amendment) Bill, 1949.	16.2.50	25.2.50
5.	The Army Bill, 1949.	21.3.50	1.4.50
6.	The Air Force Bill, 1949.	21.3.50	1.4.50
7.	The Insurance(Amendment) Bill, 1949.	24.3.50	1.4.50
8.	The Finance Bill, 1950.	27.3.50	1.4.50
9.	The Road Transport Corporations Bill, 1949.	15.11.50	18.11.50
10.	The Labour Relations Bill, 1950.	1.12.50	16.12.50
11.	The Trade Unions Bill, 1950.	1.12.50	16.12.50
12.	The Reserve Bank of India (Amendment) Bill, 1950.	13.12.50	23.12.50

THE INDUSTRIES (DEVELOPMENT AND CONTROL) BILL, 1949

PARLIAMENT OF INDIA

REPORT OF THE SELECT COMMITTEE ON THE INDUSTRIES (DEVELOPMENT AND CONTROL) BILL, 1949.

We, the undersigned, members of the Select Committee to which the Bill to provide for the development, regulation and control of certain industries was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

In view of its importance we have given this Bill our most anxious consideration and have also taken into account a considerable body of evidence placed before us and the industrial policy of Government.

Clause 1.—We have eliminated the word "control" from the Bill as far as possible and the *Short title* of the Bill has also been amended for the same reason.

Clause 2.—The wording has had to be slightly modified to be in keeping with item 52 of the Union List in the Seventh Schedule to the Constitution.

Clause 3.—We prefer the expression "scheduled industry" to "controlled industry". We have also excluded from the scope of the Bill factories employing less than 50 persons, if power is used and employing less than 100 persons, if otherwise.

Clauses 4 to 6.—These clauses are new and provide for the establishment of an independent Central Industries Board, to which will be assigned the function of granting or refusing licences under this Act and also of ensuring that powers of control vested in the Central Government are exercised after investigation by this body.

Clauses 7, 8 and 9.—We think it proper to omit references to conditions like those relating to equipment and technique.

The power to revoke, vary or amend any licence should, in our opinion, be exercisable only if the licensee has failed without reasonable cause to establish, or to take effective steps to establish, the undertaking within the prescribed period, and there should be no question of revocation after effective steps have been taken for bringing the undertaking into existence.

Clause 10.—We think that the expression "substantial expansion" should be defined suitably in the Bill itself.

Clause 11.—In our opinion, a person aggrieved by any order of the Board should have the right to appeal to the Central Government. We also feel that it should be open to the Central Government to revoke any licence granted by the Board before effective steps are taken to establish the industrial undertaking, if the Central Government thinks it necessary so to do.

Clause 12.—This new clause provides for the exercise by the Board of all the powers and functions of the Controller of Capital Issues, in so far as they concern any scheduled industry. In our opinion, such a provision is desirable.

Chapter IV.—While we feel that the Central Government should have the power to issue directions to regulate production, distribution and prices, we think that the power should be exercisable only when it is necessary in the public interest and that the necessity for such control should be established after a proper inquiry by the Industries Board. Consequently, we feel that the industries specified in the present Schedule should be split up into two groups and that, in respect of the industries specified in Part II of the Schedule, the provisions contained in Chapter IV should not normally apply.

Clauses 15, 16 and 17.—The circumstances in which the Central Government may cause investigation to be made into certain industries or undertakings are now specifically set out and the powers of control which may be exercised by the Central Government are made available to that Government only after a full investigation by the Board. The power of the Central Government to take over direct control of industrial undertakings is now restricted to cases where mismanagement is proved and the Industries Board has approved of the action to be taken. This procedure should, in our opinion, serve to free industries from any fear which may be legitimately entertained by them with respect to the scope of Government control.

Clause 18 provides for the co-option of persons by the Industries Board to assist it in the discharge of its duties.

Clause 19.—We have provided that the Board in granting licences should be guided by the instructions that may be issued from time to time by the Central Government on questions of policy.

Clause 20 is the usual clause authorising statutory bodies to enforce the attendance of witnesses and compel the production of documents.

Clause 25.—We have inserted a provision on the lines of section 101 of the Factories Act, so that clause 24(2) does not cause undue hardship in certain cases.

Clause 32.—This clause, inserted *ex-abundanti cautela*, seeks to affirm that other Central laws relating to any scheduled industry are not affected by this Bill.

The Schedule.—The industries specified in the Schedule to the original Bill have now been divided into two Parts, the provisions in Chapter IV being made applicable only to the industries specified in the first Part. This division, coupled with the power to transfer an industry from one Part to the other or to make some or all of the provisions of Chapter IV apply to any industry in Part II on a Resolution passed by Parliament in this behalf (see clause 22) should enable the Central Government to act under this Act in suitable cases without fresh legislation.

Incidentally, we have added "Vanaspati" as an additional item to the Schedule.

2. The Bill was published in Part V of the *Gazette of India*, dated the 26th March, 1949.

3. We think that the Bill has not been so altered as to require circulation, and we recommend that it be passed as now amended.

SYAMA PRASAD MOOKERJEE
 *H. V. KAMATH
 KHANDUBHAI K. DESAI
 LAKSHMI KANTA MAITRA
 TEK CHAND
 *K. T. SHAH
 RAM NARAYAN SINGH
 *BISWANATH DAS
 T. A. RAMALINGAM CHETTIAR
 *R. N. GOENKA
 JASPAT ROY KAPOOR
 P. D. HIMATSINGKA
 B. L. SONDHI
 *K. CHALIHA
 *PADAMPAT SINGHANIA

NEW DELHI;

The 10th February, 1950.

*Subject to a Minute of Dissent.

MINUTES OF DISSENT.

I.

1. We regret we are unable to concur with our colleagues of the Select Committee, and have to write a minute of dissent.

2. The Bill to provide for "the development, regulation and control of certain industries" was introduced with the avowed object of implementing the Industrial Policy, announced by the Government of India on April 6, 1948. The immediate aim of that policy was, *inter alia*, "to promote a rapid rise in the standard of living of the people by exploiting the latent resources of the country, increasing production, and offering opportunities to all for employment in the service of the community." More specifically this aim was expressed to be "the expansion of production, both agricultural and industrial and in particular of the production of capital equipment, of goods satisfying the basic needs of the people, and of commodities the export of which will increase earnings of foreign exchange."

3. With this end in view, the Industrial Policy, approved by the Legislature, and recognising the existing circumstances, had limited the direct intervention of State Enterprise to a few specified cases of vital industries, particularly those concerned with the country's defence; while, for a much larger number of specified industries of national importance, it allowed private enterprise to function, subject to the overriding needs of control and regulation, as well as development in the collective interests of the country.

4. Though leaving private enterprise to function in these cases as heretofore, the Industrial Policy approved by the Legislature had made it clear that "The State will also progressively participate in this field; nor will it hesitate to intervene whenever the progress of an industry under private enterprise is unsatisfactory." After illustrating the directions in which the State had already commenced collective enterprise, it was clearly provided that in the specified large scale industries of national importance, planning and regulation by the Central Government was necessary in the national interest. This planning and regulation was considered to be particularly needed in regard to the location of any of those industries governed by factors of all India importance, or where considerable technical skill was required, or where large scale investment of capital needed.

5. The Bill, as originally introduced and referred to the Select Committee, sought to bring under central control the development and regulation of these industries, which affect the economic well-being of the country as a whole, and the development of which must be governed by economic factors of all India importance. The device of licensing all new under-takings in those industries was adopted to ensure proper planning and sound development so as to make for a balanced and co-ordinated growth. At the same time existing undertakings in these industries were to be registered, so as to facilitate the entire group keeping in step for an all round growth following a preconcerted plan.

6. The Select Committee has, however, overlooked or underrated these basic objectives underlying the measure, and made changes which, in our judgment, make the measure far from satisfactory. The majority seem to us to have been unduly influenced by "certain strong criticisms levelled against this Bill" by obviously interested quarters. They have, therefore, agreed to minimise control, and even to exclude it from the title of the Bill. We consider, however, that this deference shown to the sensitiveness of certain persons" prone to take offence where none may be meant, gravely militates against the very object the Bill was introduced to achieve. All the consequential changes and modifications, whether verbal or of substance, are accordingly unacceptable to us.

7. Yet another important change of a fundamental character introduced by the majority of the Select Committee concerns the establishment of an "independent Industries Board" by two new clauses 4 and 5. To this new creation is to be assigned the task of granting or refusing licences, and the exercise of a measure of control not vested in the Central Government. Presumably the Board will make a semi-judicial enquiry before granting or refusing license, or exercising control in particular cases.

8. Apart from the fact that this is a needless addition to the existing machinery, we fear the interposition of such an authority lead only to delay and defeat of the basic objective of such legislation. There is already at work a Tariff Board, which, though *ad hoc* today, is likely to be a permanent organisation, functioning as an integral part of our economic set-up. That Board investigates the claims of specific industries for fiscal or other protection, with a view to adequately safeguard and ordered development of the industry concerned. The Bill as it has emerged from the Select Committee, overlooks this aspect of the case almost entirely, and ignores the need for control and regulation of certain industries the growth and expansion of which is brought about at considerable cost to the community.

9. Besides the Tariff Board, and its function of investigation into the claims of given industries for fiscal or other protection or assistance, there is, according to this very Bill, an Industrial Advisory Council. The function of that body, somewhat indefinite and uncertain in the original Bill, is made almost superfluous from the point of effectiveness, by the addition of the Industries Board.

10. While providing for licensing and registration, the Bill, as reported by the Select Committee, unnecessarily restricts the use of these devices, and the conditions for their exercise ensuring efficient equipment and up-to-date technique. We consider this modification unfortunate for achieving the main purpose of the Bill, and would like to make these powers and conditions for their exercise more ample than in the original Bill.

11. The power, moreover, to revoke, vary or amend the license has been made, exercisable only if "The Licensee has failed, without reasonable cause, to establish . . . the undertaking within the prescribed period" No mention is made of the need to revoke or modify the license where the private owner has been found guilty of gross mismanagement, or where the concern could only succeed, if some other aid from the State is provided. We consider this a serious omission, and ought to be rectified, since we consider that more enterprises fail, or retard the planned development on the national economy through mismanagement than through all other factors combined.

12. Further, we are of the opinion that there has been a misconception of the basis of our national economy. "Our economy" it is stated, "being essentially based on private enterprise any measure of regulation, which threatens unduly to sap or restrict the scope of such enterprise, may defeat its own purpose". The leading characteristic of our existing economy is "mixed", not essentially state or exclusively private enterprise. The apprehension, therefore, voiced in the remark quoted is out of place.

13. The majority has in this, as in other Chapters, been unduly swayed by the criticism of clauses 7 to 10 from interested quarters, and made concessions to them to the grave prejudice of the measure they were required to scrutinise. While conceding to Government the power to "regulate production, distribution and prices", they would allow such power to be exercised only when it is necessary in the public interest; and the necessity for such control should be established after a proper enquiry by an independent body like the Industries Board." We regret we cannot see the force of thus limiting State

authority in this particular regard. And if the major premise with which they started be granted, *viz.*, that the basis of our economy lies in private enterprise, the chances of such an enquiry by a so-called independent Board doing justice to the national interests when they conflict with private enterprise will be remote indeed.

14. Substantially the same logic applies to their observations regarding Clauses 16-18. These relate to the circumstances under which the Central Government could order investigation into the conduct of particular undertakings, and exercise the control vested in them. The interposition of a judicial investigation before Government exercise their legal powers even for the interim period is likely to result in avoidable frustration of the ultimate aim of this legislation. If a parallel may be quoted in this behalf, it sometimes happens the Reserve Bank of India is asked to conduct investigation into the conduct of a given bank. But, at the same time, Government impose restrictions on the operations of the Bank whose affairs are being enquired into by the Reserve Bank. In the case of any industrial undertaking, if preliminary investigation of the type suggested in the majority report is a condition precedent to any control being exercised by Government, little good would result from the entire procedure. If control is to be effectively exercised by Government, even during the interim period, it must be categoric and unconditional, being within the sole discretion of Government.

15. No mention is made in the Bill, either in its original, or in its amended form, of the claims and the role of labour in the development of industries. Nor is the treatment of labour made in any way a condition of licensing, or otherwise controlling and regulating an industry, or an undertaking within an industry. We consider this a fatal omission, and hope to see it duly rectified at the first opportunity.

16. The divisions of industries selected for purposes of this Bill into two groups is unnecessary and misleading. In fact, in the original statement of Industrial Policy as well as in the Bill as originally introduced in Parliament and referred to the Select Committee, the industries now divided into two groups in the Schedule to the Bill, were all grouped together. The division in the Select Committee is brought about in the desire to minimise Governmental control over those industries. Under modern conditions all industries, and in fact all economic processes, are closely interconnected and interdependent. Any division or classification of this type can only be artificial, and create more problems than solve them. A uniform policy for the control and regulation of all important industries of a national character would be much more effective than the kind of differentiation suggested by the Committee.

K. T. SHAH.

H. V. KAMATH.

NEW DELHI;

The 10th February, 1950.

II.

REPUBLICATION NECESSARY.

The Bill has been materially changed by the Select Committee. In the result we have 31 sections in place of 18. A new powerful and permanent machinery in the name of the Board of Industries has been devised and added to the frame work of the Bill with very important and essential powers. The Advisory Council in clause 5 of the Bill re-appears both in theory and substance merely an advisory body shorn of its important functions and power in clause 20.

of the Select Committee Report as different from those in the Bill. The Schedule in the Bill is again divided into parts I and II eliminating governmental interference in part "II" confining limited and defined powers of interference to part "I" of the Schedule, *viz.*, mismanagement. Even this has been circumscribed by two statutory references to the board. A giant has thus been converted into a pygmy in miniature. I consider these changes as substantial and needs republication.

RETARDING NATIONALISATION BY PROVINCIAL GOVERNMENTS

Another important question that should agitate public mind is that the Industries (Development and control) Bill has been referred to the Select Committee accepting its underlying principle to control certain private enterprises in accordance with Government's industrial policy resolution of the 6th April 1948. The Select Committee has gone in its own way to put its spoke on the wheel of nationalisation making it difficult for Provincial Governments and other quasi-Governmental institutions themselves to start any new enterprise. Thus have they roped in industries started by Provincial and State Governments as also the industries started by or to be hereafter started by corporations such as those of the Damodar Valley or of the Corporations of Calcutta, Madras and Bombay putting all these State enterprises on par with private enterprises. In the result, a Bill introduced to control private industries by the Union Government sets up a statutory Board and what is more prostrates all the enterprises started by the Government of India, the Provincial and State Governments as also of corporations and local bodies under the control and registration of the statutory Board. Development of industries is a Provincial responsibility. Indian constitution has centralised powers in itself. This legislation dives into further depths making it difficult for State and Provincial Governments and corporations to carry on a programme of nationalised industries. Provisions here are wide enough to cover within it the constitution even of a multi-purpose salt society by a State Government to be started only with a license and sanction from the Board constituted under the scheme even though constitution of such societies is exclusively given to the States in the constitution.

THE INDUSTRIES BOARD

The Board constituted in terms of chapter II is a costly machinery, implications of which have neither been calculated nor realised. If this costly machinery is to be perpetuated why then a Tariff Board? Duplication, besides being costly, leads to file work, delay and difficulties. The qualifications laid down in clause 5 are bound to lead to the appointment of industrialists in which case the industrialists are to control industries of the Union, States and Corporations. This scheme therefore leads one to the vicious process of ending in the controlling of national enterprises in its resolve to control private enterprises. Me thinks government, at present, have neither the machinery nor the necessary technical personnel to undertake the responsibility contemplated in sub-clause 2 of clause 17. A threat, without ability to enforce, demoralises the giver as also the person to whom it is tendered. This is fully reflected in the Government's announcement to take up the Vizagapatam shipyard ending in the demand of the company for protection and subsidy. Powers in the Bill ought to be delegated to the Tariff Board for the time being. If the appointment of a Board becomes imperative, persons to be appointed should be made to disclose all their assets before their assumption of office. Under the Government of India Act of 1935 it was the responsibility of Finance Ministry to examine the financial implications of a Bill. Such a procedure is necessary even in the centre specially in case of all such Bills. Considered from any point of view, I feel this costly machinery is unnecessary and is bound, very soon, to develop into a graded hierarchy as soon as it sets its foot in motion.

Clauses 7 and 8 impose registration of existing industrial undertakings and licensing of new ones. No new undertaking could be started under clause 8 without a licence. Old undertakings shall be registered within six months of the commencement of this Act. Clause 10 insists upon licensing of substantial expansion. Knowing as we do the slow process of secretariat work, necessary it is to fix a period e.g., two months within which registration or licence or both are to be completed. If this is not possible, objections against its approval and license should, at least, be intimated within this period. In the absence of one or the other, the party should be left free to begin construction of the undertaking as if registration was being made and license as being given.

In clause 3 of the Bill a factory has been defined as one engaging 50 or more workers in any of these scheduled industries. Any small industry for manufacture of salt or of iron or steel parts or sugar or country-made sugar are bound to have 50 or more workers every day during the season to come under the purview of sub-clause (c) of clause 3 so as to necessitate registration and licensing. Difficult it is for such a small industry to spend time and money in New Delhi to secure registration and license. Provisional sanction of the Provincial Government or of the provincial board of industries, in such cases, is a necessity. Representation and appeal against the decision of the Board for such small industries is equally a difficult and costly process. Provincial Governments or the provincial board of industries be, under the circumstances, authorised to deal with such smaller cases.

BISWANATH DAS

NEW DELHI,
The 10th February, 1950.

III

Clause 3(b).—The definition of owner is very vague. The vesting of ultimate control over the affairs of an undertaking cannot be determined except by a process of law.

Clause 5(1).—The qualifications prescribed for appointment as a Chairman or a member of a Board of Industries is so vague that an enumeration of these qualifications can be omitted.

Clause 5(2).—It is not necessary that the members of the Board need be, to begin with, whole time members. In view of the fact that it would cost the exchequer Rs. 1,20,200 and also in view of the fact that the Board might not have enough work to start with, it might be constituted with persons who have other work to do. Omission of this sub-clause would leave the matter open.

Clause 5(3).—The language of this clause is capable of being improved upon.

Clause 8.—A provision making it incumbent on the Board to make a decision about an application for a license either for the opening of a new undertaking or for making substantial additions to an existing undertaking within a period of six months from the date of receipt of the application, would be desirable.

Clause 10.—The wording of the explanation is unhappy and would lead in the working of this measure to friction and also to judicial interference.

Clause 15.—A saving clause stating "nothing in this section shall be deemed to prevent the Central Government from referring any or all of the matters referred to in sub-clause (1) to the Tariff Board or any other authority exercising similar functions" should be included.

Clause 22.—May be omitted. The transfer of industries from Schedule Part II to Part I can best be effected by a parliamentary amendment of this measure.

Schedule Part II.—Add "Bicycles" to the list.

R. N. GOENKA

NEW DELHI,

The 10th February, 1950.

IV

The Bill has been conceived with the best of intentions and it is hoped that achievements under the Bill when passed into Law will be commensurate with the expectations. With the necessary finance and skill it will be time to think of taking up various industries in Schedule II as well, but we are lacking in expert personnel and finance in running our existing industries.

Tea, which is the chief industry of Assam has been giving valuable dollars to the Government of India. The industry is carrying on the business efficiently and has so far not fallen to any of the unapproved ways. It is controlled in everyway from cultivation to manufacture. The existing tea estates are registered and licensed by the Tea Licensing Committee, no new tea estates can be started, and export of manufactured tea is controlled and even internal production is limited.

The extension of existing tea estates is permitted under very rigid conditions, even uprooting and replanting are allowed only under certain terms. The planting of tea seeds are to be reported to the Licensing Committee and the distance at which seeds are put in the nursery is to be reported also. The number of seedlings uprooted and the purpose for which they are utilised is to be noted and reported.

Further, factories of tea estates are to be registered under the Factories Act and the Central Excise has rigid control over clearances of manufactured tea from the factories. It will be a misfortune, that even after this, the industry is still further to be controlled. I am strongly against inclusion of tea in Schedule II.

KULADHAR CHALIHA

NEW DELHI,

The 10th February, 1950.

V

CHAPTER II INDUSTRIES BOARD

Clause 5.—The constitution of the Industries Board should be so amended as to include at least half its members to represent industry. It should be autonomous but not a whole-time body because the number of applications coming before it for licensing even if it (licensing) is retained in the face of severe criticism against it, is not likely to be such as to warrant the appointment of a permanent whole-time board.

CHAPTER III

PROVISIONS APPLICABLE TO SCHEDULED INDUSTRIES GENERALLY

Clause 8.—There should be no provision for licensing of any undertaking. Powers may, however, be vested in the Government of India to prohibit the establishment of any of the scheduled industries in the Union or any specific territories for a period not exceeding 12 months at a time. This

power will enable the Government to prohibit the establishment of an industrial undertaking if it be found that there is no scope for the establishment of further similar undertakings either anywhere in the Union or in the specified area or areas. This method will evidently help the Government in regulating the development of scheduled industries without the usual effects attendant on the system of licensing.

The proviso to this clause automatically goes. In case, however, licensing is retained, the Central Government should refer the applications of the Provincial Governments also for the establishment of a new industrial undertaking to the Industries Board.

Clause 8(2).—The board should have no power to impose any other conditions excepting those of location and size in granting a licence.

Clause 9(2).—The following proviso to this sub-clause should be added: "Provided that such variation or amendment would not prejudice the interests of the licensee".

Sub-clause (2) of clause 11 authorising the Central Government to revoke the licenses granted by the Board should be deleted.

Clause 12. is not at all necessary and should be deleted.

Clause 13.—Power of Inspection.—The officer to be authorised by the Central Government for this purpose should not be of a lower position than a first class magistrate.

(a) The power to enter and inspect any premises should be exercised after due notice.

(b) and (c). The person to be examined should be the one nominated by the company under Clause 23. No other person need be examined because that would lead to unnecessary harassment.

CHAPTER IV

SPECIAL PROVISIONS APPLICABLE TO SCHEDULED INDUSTRIES IN PART I OF THE SCHEDULE

The powers under Clause 15 of this chapter for the causing of investigation should be confined to cases where there is definite evidence to show that any of the circumstances enumerated under sub-clauses (a) to (e) have been in existence. The words 'or is likely' in these sub-clauses should be omitted.

Further in sub-clause (1) of clause 15, the words 'is of opinion' should be substituted by 'as definite evidence, and is satisfied.'

Clause 16.—It is not mentioned as to who bears the loss in case the orders of the Central Government to an industrial undertaking are misdirected and land it in substantial loss. It is patently unfair to the industrial undertaking to order things to be done which may result in loss and which it cannot recover from the authority causing those orders to be carried out.

This applies with even greater force to the various provisions of Clause 17 which virtually amount to nationalisation without payment of any compensation. The question of payment of compensation being admissible in a court of law under Article 24 of the Constitution of India, the responsibility of the Government in regard to this matter should be fully considered before electing these provisions.

CHAPTER V

MISCELLANEOUS

Clause 20.—Constitution of the Advisory Council.—A part from the Central Advisory Council, there should also be Advisory Councils for each of the industries in the Schedule. All the Advisory Councils should have their members nominated by the industry or the industries concerned.

The word 'control' from the last line of sub-clause (d) should be deleted.

Clause 28.—Penalties.—The provision relating to imprisonment should be deleted. The fine should not exceed Rs. 2,000/- and in case of continuing contravention should not exceed Rs. 50/-.

Clause 28 should be deleted. The Government servants always enjoy immunity. Special provision for the same is not necessary in the Act which may have the effect of leaving the aggrieved party without recourse to a court of law.

Clause 29.—Power to make rules. The rules to be framed should not only be previously published, but, views on the same should be specifically invited from the industries concerned.

With the exception of sub-clause (a) of sub-clause (2), it should be made clear that the Government shall consult the Advisory Council and Councils as laid down in Clause 20(8) (b) in making the rules.

(d) The registration fee should in no case exceed Rs. 50/-. This should be laid down in the Act itself.

(h) should be deleted.

(i) This comes under the Indian Companies Act and should not find place here.

(j) Care should be taken to see that these periodical reports are kept to the minimum and are uniform in respect of the various authorities.

PADAMPAT SINGHANIA

NEW DELHI,

The 10th February, 1950.

THE INDUSTRIES (DEVELOPMENT AND REGULATION) BILL, 1949

[AS AMENDED BY THE SELECT COMMITTEE]

(*Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions*)

**A
BILL**

*to provide for the development and regulation * of certain industries.*

* * * *

Be it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Industries (Development and Regulation) Act, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

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

2. Declaration as to expediency of control by the Union.—It is hereby declared that it is expedient in the public interest that the Union should take under its control the * * industries specified in the Schedule.

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

(a) “Advisory Council” means the Advisory Council constituted under section 21;

(b) “Board” means the Central Industries Board established by the Central Government under section 4;

(c) “factory” means any premises including the precincts thereof—

(i) whereon fifty or more workers are working, or were working, on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon one hundred or more workers are working, or were working, on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on;

(d) “industrial undertaking” means any undertaking pertaining to a scheduled industry carried on in one or more factories by any person or authority including Government;

(e) “notified order” means an order notified in the Official Gazette;

(f) “owner”, in relation to an industrial undertaking, means the person who, or the authority which, has the ultimate control over the affairs of the undertaking, and, where the said affairs are entrusted to a manager or managing agent [as those expressions are defined in the Indian Companies Act, 1913 (VII of 1913)], such manager or managing agent shall be deemed to be the owner of the undertaking;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Schedule" means the Schedule to this Act;

(i) "scheduled industry" means any of the industries specified in Part I or Part II of the Schedule.

CHAPTER II

CENTRAL INDUSTRIES BOARD

4. Establishment of a Central Industries Board.—The Central Government may, by notification in the Official Gazette, establish a Board to be called the Central Industries Board, for the purpose of exercising such powers and discharging such duties as may be assigned to the Board by or under this Act.

5. Constitution of the Board.—(1) The Board shall consist of a Chairman and two other members, all of whom shall be appointed by the Central Government from among persons appearing to it to be persons who have had wide experience and shown capacity in industrial, commercial, technical or judicial matters or in administration.

(2) Every member of the Board shall render whole time service to the Board and shall hold and vacate his office in accordance with the terms of his appointment, and shall, on ceasing to be a member, be eligible for reappointment:

Provided that any member may at any time, by notice in writing to the Central Government, resign his office.

(3) Before appointing a person to be a member of the Board, the Central Government shall satisfy itself that that person will have no such financial or other interest in any scheduled industry as is likely to affect prejudicially the discharge by him of his functions as a member of the Board, and shall also satisfy itself from time to time with respect to every member that he has no such interest; and any person who is, or whom the Central Government proposes to appoint to be, a member of the Board shall, whenever required so to do, furnish to the Central Government such information as may be considered necessary by the Central Government for the performance of its duties under this section.

(4) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

6. Appointment of officers.—The Central Government may, on the recommendation of the Board, appoint as many officers as may be necessary, to discharge under the directions of the Board such duties as may be specified by the Board, and such officers shall be paid such salaries and allowances as may be fixed by the Central Government.

CHAPTER III

PROVISIONS APPLICABLE TO SCHEDULED INDUSTRIES GENERALLY

7. Registration of existing industrial undertakings.—(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within a period of six months from the commencement of this Act, register the undertaking in the prescribed manner.

(2) The Central Government shall also cause to be registered in the same manner every existing industrial undertaking of which it is the owner.

8. Licensing of new industrial undertakings.—(1) No person or authority, other than the Central Government, shall, after the commencement of this Act, establish any new industrial undertaking, except under and in accordance with a licence issued in that behalf by the Board:

Provided that a Government other than the Central Government may, with the previous permission of the Central Government, establish a new industrial undertaking.

(2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size * * * to be provided therein, as the Board may deem fit to impose in accordance with the rules, if any, made under section 31.

9. Revocation and amendment of licences in certain cases.—(1) If the Board is satisfied, either on a reference made to it in this behalf or otherwise, that any person or authority, to whom or to which, a licence has been issued under section 8, has, without reasonable cause, failed to establish or to take effective steps to establish the new industrial undertaking in respect of which the licence has been issued within the time specified therefor or within such extended time as the Board may think fit to grant in any case, it may revoke the licence.

(2) Subject to any rules that may be made in this behalf, the Board may also vary or amend any licence issued under section 8:

Provided that no such power shall be exercised after effective steps have been taken to establish the new industrial undertaking in accordance with the licence issued in that behalf.

10. Licensing of substantial expansions of industrial undertakings.—The provisions of sections 8 and 9 shall apply in relation to the effecting of any substantial expansion of an industrial undertaking * * * as they apply in relation to the establishing of any new industrial undertaking.

Explanation.—For the purposes of this section "substantial expansion" means the expansion of an existing industrial undertaking which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion.

11. Appeals from, and review of, certain orders of the Board.—(1) Any person aggrieved by an order of the Board,—

(a) refusing to grant him a licence in respect of a new industrial undertaking, or in respect of any substantial expansion of an industrial undertaking, or

(b) revoking any licence under sub-section (1) of section 9, or

(c) varying or amending any licence under sub-section (2) of section 9, may within thirty days of the receipt of the order by him appeal to the Central Government, and the Central Government may pass such orders thereon as it thinks fit.

(2) Notwithstanding anything contained in sub-section (1), the Central Government, if in any case it is of opinion that any licence issued by the Board under section 8 or section 10, in respect of any industrial undertaking should not have been issued, may, after giving a reasonable opportunity to the persons concerned to be heard, revoke the licence:

Provided that no such power shall be exercised after effective steps have been taken to establish the new industrial undertaking or the effecting of the substantial expansion, as the case may be.

12. Power of Board to control issue of capital with reference to any scheduled industry.—So long as the Capital Issues (Continuance of Control) Act, 1947 (XXIX of 1947), is in force, the provisions of that Act shall apply to the issue

of capital with reference to any of the scheduled industries as if the Central Government had, by order made under the provisions of section 9 of that Act, directed the Board to exercise or discharge, to the exclusion of all others, all the powers and duties conferred or imposed upon the Central Government under that Act which may be so delegated under that section.

13. Power of inspection.—(1) For the purposes of ascertaining the position of working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any officer authorised by the Central Government in this behalf shall have the right to—

(a) enter and inspect any premises;

(b) order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and

(c) examine any person having the control of, or employed in connection with, any industrial undertaking.

(2) Any officer authorised by the Central Government under sub-section (1), shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

CHAPTER IV

SPECIAL PROVISIONS APPLICABLE TO INDUSTRIES IN PART I OF SCHEDULE

14. Application of Chapter.—This Chapter shall apply only to the industries specified in Part I of the Schedule and the industrial undertakings pertaining thereto.

15. Power to cause investigation to be made into certain industries or industrial undertakings.—(1) The Central Government may,—

(a) if, in respect of any industry or industrial undertaking to which this Chapter applies, it is of opinion that—

(i) there has been, or is likely to be, a substantial fall in the volume of production in respect of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking, as the case may be, for which there is no justification, having regard to the economic conditions prevailing, or

(ii) there has been, or is likely to be, a marked deterioration in the quality of any articles or class of articles relatable to that industry or manufactured or produced in the industrial undertaking, as the case may be, which was or is not unavoidable, or

(iii) there has been, or is likely to be, a rise in the price of any article or class of articles relatable to that industry or manufactured or produced in the industrial undertaking, as the case may be, for which there is no justification, or

(iv) it is necessary to take any action provided in this Chapter for the purpose of conserving any resources of national importance which are utilised in the industry or the industrial undertaking, as the case may be, or

(b) if, in respect of any industrial undertaking to which this Chapter applies, the Central Government is of opinion that it is being managed in such a manner as is likely to cause serious injury or damage to the shareholders of the undertaking, or a substantial body thereof, or to the consumers or a substantial body thereof for whom the articles or any class of articles manufactured or produced therein are or is intended,

by order in writing, setting out the facts, refer the case to the Board for investigation.

(2) On receipt of any reference under sub-section (1), the Board shall, after giving notice in the prescribed manner to the owner or owners of the industrial undertaking or undertakings concerned, as the case may be, cause a full and complete investigation to be made into the circumstances of the case, and a report of such investigation and the recommendations of the Board thereon shall be forwarded to the Central Government.

16. Powers of Central Government on receipt of report under section 15.—

(1) On receipt of any report from the Board under section 15, the Central Government may issue such directions to the industrial undertaking or undertakings concerned as may be appropriate in the circumstances, for all or any of the following purposes, namely:—

(a) regulating the production of any articles or class of articles by the industrial undertaking or undertaking and fixing the standards of production;

(b) requiring the industrial undertaking or undertakings to take such steps as the Central Government may consider necessary to stimulate the development of the industry to which the undertaking or undertakings relates or relate;

(c) prohibiting the industrial undertaking or undertakings from resorting to any act or practice which might reduce its or their production, capacity or economic value;

(d) controlling the prices or regulating the distribution of any articles or class of articles which have been the subject of investigation by the Board.

(2) Where a case relating to an industrial undertaking or the industrial undertakings pertaining to an industry is under investigation by the Board, the Central Government may, after consultation with the Board, issue at any time any direction of the nature referred to in sub-section (1) to the industrial undertaking or industrial undertakings, as the case may be, and any such direction shall have effect until it is confirmed, varied or revoked by the Central Government on receipt of the report under section 15.

17. Special provisions for direct control by Central Government in certain cases.—(1) If, after a direction has been issued in pursuance of section 16, the Central Government is of opinion that the direction has not been complied with and that any industrial undertaking in respect of which the direction has been issued is being managed in a manner highly detrimental to the scheduled industry concerned or the public interest, it may refer the case to the Board for decision as to whether the industrial undertaking should not be brought directly under the control of the Central Government.

(2) If the decision of the Board is that the industrial undertaking should be brought directly under the control of the Central Government, the Central Government may, by notified order, authorise any person (hereinafter referred to as the authorised person) to exercise, with respect to the whole or any part of such undertaking, such functions of control as may be provided by that order and, so long as an order made under this section is in force with respect to any undertaking or part thereof,—

(a) the authorised person shall exercise his functions in accordance with any instructions given to him by the Central Government, so however that he shall not have any power to give any directions inconsistent with the provisions of any Act or other instrument determining the functions or authority carrying on the undertaking, except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised person in accordance with the provisions of the order, and any person, having any functions of management in relation to the undertaking or part, shall comply with any such directions.

(3) Any order made under this section shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

CHAPTER V

MISCELLANEOUS

18. Power of Board to call for assistance in any investigation.—The Board may, for the purpose of making any inquiry or investigation under this Act, choose one or more persons, possessing special knowledge of any matter relevant to the inquiry or investigation, to assist it in holding the inquiry or investigation.

19. Instructions to the Board by Central Government.—(1) In granting any licences under this Act, the Board shall be guided by such instructions on questions of policy as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Board as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

20. Powers and procedure of the Board.—The Board shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of taking evidence on oath (which the Board is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, and the Board shall be deemed to be a civil court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898 (Act V of 1898).

21. Constitution of Advisory Council.—(1) The Central Government shall constitute an Advisory Council to advise it on matters concerning the development and * regulation of any scheduled industry.

(2) The number and term of office of, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council shall be such as may be prescribed.

(3) The Central Government shall consult the Advisory Council in regard to—

* * * * *

(a) the making of any rules under this Act;

(b) any other prescribed matter.

22. Power to transfer scheduled industries from one part to another of Schedule and to direct application of Chapter IV to certain industries in Part II.—(1) Where, after consultation with the Board, the Central Government is of opinion that it is expedient in the public interest so to do, it may, by notified order,—

(a) direct the transfer of an industry from Part I to Part II of the Schedule or from Part II to Part I of the Schedule, as the case may be, or,

(b) direct that all or any of the powers exercisable under Chapter IV may be exercised in relation to any industry specified in Part II of the Schedule or any industrial undertaking pertaining to any such industry.

(2) On the issue of a direction in accordance with the provisions of clause (a) of sub-section (1) the provisions of this Act shall apply to the industry so directed to be transferred as they apply in relation to any other scheduled industry in Part I or Part II as is appropriate in the circumstances.

(3) No order shall be issued under this section unless it has been laid in draft before Parliament and has been approved by it by Resolution passed in this behalf.

23. General prohibition of taking over management or control of industrial undertakings.—After the commencement of this Act, it shall not be competent for any State Government or a local authority to take over the management or control of any industrial undertaking under any law for the time being in force which authorises any such Government or local authority so to do.

24. Penalties.—(1) Whoever contravenes or attempts to contravene, or abets the contravention of, the provisions of sub-section (1) of section 7, or of sub-section (1) of section 8, or of sub-section (1) of section 8 read with section 10, or of clause (b) of sub-section (2) of section 17, or of any rule the contravention of which is punishable under this section, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and, in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If the person contravening any of the said provisions is a company or other body corporate, every director, manager or secretary thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention:

Provided that the company or other body corporate may give notice to the Central Government that it has nominated a director or manager or secretary thereof to be the person who shall be liable under this sub-section for the contravention of any of the said provisions by the company or other body corporate, and such person shall, in the case of any contravention of any of the said provisions by such company or other body corporate, be deemed to be the person guilty of such contravention under this sub-section * * * until further notice cancelling his nomination is received by the Central Government or until he ceases to be a director, manager or secretary, as the case may be, of such company or other body corporate.

25. Exemption of nominated director, manager or secretary from liability in certain cases.—Where a director, manager or secretary nominated under the proviso to sub-section (2) of section 24 is charged with an offence punishable under that section, he shall be entitled, upon complaint duly made by him and on giving to the prosecutors not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the director, manager or secretary, as the case may be, proves to the satisfaction of the court—

(a) that the said other person committed the offence without his knowledge, consent or connivance, or

(b) that he has exercised all due diligence to prevent the commission of such offence,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the director, manager or secretary and the * director, manager or secretary, as the case may be, shall be discharged from any liability in respect of such offence.

Provided that in seeking to prove any matter as aforesaid the director, manager or secretary, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination by or on behalf of the person whom he charges as the actual offender and by the prosecutor:

Provided further that if the person charged as the actual offender by the director, manager or secretary, as the case may be, cannot be brought before the court at the time of hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months, and, if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the director, manager or secretary and shall, if the offence be proved, convict the director, manager or secretary.

26. Previous sanction of Central Government for prosecution.—No prosecution for any offence punishable under section 24 shall be instituted except with the previous sanction of the Central Government.

27. Jurisdiction of courts.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under section 24.

28. Delegation.—The Central Government may, by notified order, direct that any power exercisable under this Act by the Central Government (except the power exercisable under section 11) shall be exercised, subject to such conditions, if any, as may be specified therein, by such officer or authority including any State Government and officers and authorities thereof as may be specified in the direction.

29. Exemption in special cases.—The Central Government may, if satisfied that it is in the public interest so to do, exempt any industrial undertaking from the operation of all or any of the provisions of this Act or any rules made thereunder.

30. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

31. Power to make rules.—(1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes 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 remuneration and other conditions of service of members of the Board;

(b) requiring any industrial undertaking to provide facilities therein for the training of technicians and labour;

(c) * for the collection of any information or statistics in respect of any scheduled industry;

(d) * * the manner in which industrial undertakings may be registered under section 7 and the levy of a fee therefor;

(e) the procedure for the grant or issue of licences and permissions under sections 8 and 10, and the matters which the Board may be required to take into account in the granting or issuing of licences and permissions, including, in particular, the previous consultation by the Board with the Governments concerned in regard to the grant or issue of any such licences or the previous consultation by the Central Government with the Board with regard to any permissions;

(f) the submission to the Central Government of copies of all licences issued by the Board under the provisions of this Act;

(g) the conditions which may be included in any licences and permissions;

(h) the conditions on which such licences and permissions may be varied or amended under section 9;

(i) the period within which any action required to be taken by the Board or any other authority under this Act should be taken;

(j) the maintenance of books, accounts and records relating to an industrial undertaking and employment of any accounting and auditing staff therein;

(k) the submission of special or periodical returns and reports relating to an industrial undertaking by persons having the control of, or employed in connection with, such undertaking, and the forms in which and the authorities to which such returns and reports shall be submitted;

(l) for any other matter which requires to be prescribed.

(8) Any rule made under this section may provide that a contravention thereof shall be punishable under section 24.

(4) All rules made under this section shall be laid for not less than thirty days before Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid, or the session immediately following.

32. Application of other laws not barred.—The provisions of this Act shall be in addition to and not, save as otherwise expressly provided in this Act, in derogation of any other Central Act for the time being in force, relating to any of the scheduled industries.

33. Amendment of section 2, Act XIV of 1947.—In section 2 of the Industrial Disputes Act, 1947 (XIV of 1947),—

(a) in sub-clause (i) of clause (a), after the words "by a railway company" * * * * the words "or concerning any such controlled industry as may be specified in this behalf by the Central Government" shall be inserted;

(b) after clause (e), the following clause shall be inserted, namely:—

'(ee) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;.'

THE SCHEDULE
 [See sections 2 and 3(i)]

PART I
 (See section 14)

Any industry engaged in the manufacture or production of any of the following, namely:—

- (1) Aircraft.
- (2) Arms and ammunition.
- (3) Coal, including coke and other derivatives.
- (4) Iron and steel.
- (5) Motor and aviation fuel, kerosene, crude oils and synthetic oils.
- (6) Salt.
- (7) Ships and other vessels propelled by the agency of steam, or by electricity or other mechanical power.
- (8) Sugar.
- (9) Telephones, telegraph apparatus and wireless communication apparatus.
- (10) Textiles made wholly or in part of cotton or jute.

PART II

- (1) Automobiles, including tractors.
- (2) Cement.
- (3) Electric lamps and fans.
- (4) Electric motors.
- (5) Heavy chemicals including fertilizers.
- (6) Heavy machinery used in industry including ball and roller bearing and gear wheels and parts thereof, boilers and steam generating equipment.
- (7) Locomotives and rolling stock.
- (8) Machine tools.
- (9) Machinery and equipment for the generation, transmission and distribution of electric energy.
- (10) Non-ferrous metals including alloys.
- (11) Paper and newsprint.
- (12) Pharmaceuticals and drugs.
- (13) Power and industrial alcohol.
- (14) Rubber goods.
- (15) Tea.
- (16) Textiles made of wool.
- (17) Vanaspati.

PARLIAMENT OF INDIA

Report of the Select Committee on the Industries (Development and Control) Bill, 1950; with the Bill as amended.